

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION**

**MEETING OF MARCH 11 AND 12, 2009
Kings Beach**

- ITEM:** 5
- SUBJECT:** **CONSIDERATION OF AN ADMINISTRATIVE CIVIL LIABILITY (ACL) ORDER FOR SARBJIT S. KANG AND THE KANG PROPERTY, INCORPORATED FOR VIOLATION OF (1) CALIFORNIA WATER CODE SECTION 13267 AND (2) CALIFORNIA WATER CODE SECTION 13304 – SWISS MART GAS STATION, EL DORADO COUNTY**
- CHRONOLOGY:** Dec. 14, 2007 Cleanup and Abatement Order No. R6T-2007-0029 issued.
- Dec. 19, 2008 ACL Complaint No. R6T-2008-0021 issued.
- ISSUES:** Should the Water Board adopt the proposed ACL Order against Sarbjit S. Kang and the Kang Property, Incorporated?
- Does the proposed liability of \$403,900 sufficiently address the alleged violations?
- DISCUSSION:** The Kang Property, Incorporated is the legal owner of the Swiss Mart Gas Station at 913 Emerald Bay Road (APN 023-181-191) in South Lake Tahoe (Property) (Enclosure 2). According to El Dorado County Department of Environmental Management, Sarbjit S. Kang is listed as the operator of the underground storage tanks on the permit issued to the Property. Mr. Kang and the Kang Property, Incorporated are known herein as the Dischargers.
- On December 14, 2007, the Water Board Executive Officer issued Cleanup and Abatement Order No. R6T-2007-0029 (Order) to Sarbjit S. Kang and Kang Property, Inc., for an unauthorized release of petroleum hydrocarbons at the Property. The release was detected above drinking water standards in groundwater beneath the Property and in a domestic well, located 500 feet to the east. The Order required the Dischargers to cleanup and abate the effects of the release and provide an alternate drinking water supply to the resident of the affected domestic well. The Dischargers complied with one requirement in the Order by the listed deadline. All other requirements were either conducted past

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their respective deadlines or not conducted at all. No alternate water supply was ever provided or offered to the resident of the affected domestic well.

Counsel for the Water Board's Prosecution Team sent a letter, dated October 16, 2008, to the Dischargers concerning violations of the Order (Enclosure 3). The letter offered a settlement meeting prior to issuance of an ACL complaint. Counsel received no response to the letter.

On December 19, 2008, the Water Boards' Assistant Executive Officer issued ACL Complaint No. R6T-2008-0021 (Complaint) (Enclosure 4). The Complaint was issued to the Dischargers in response to violations associated with (1) Water Code section 13267 (Orders for Technical Reports) and (2) Water Code section 13304 (Cleanup and Abatement Order). The Complaint cited ten months of violations of the Order and contained a total civil liability amount of \$403,900. The certified letter containing the Complaint for Kang Property, Inc. was signed and accepted (Enclosure 5). The certified letter addressed to Mr. Kang at the Property, however, was refused (Enclosure 6). Water Board staff hand-delivered the Complaint to a cashier at the Swiss Mart Gas Station for Mr. Kang.

On January 16, 2009, the Water Board Advisory Team mailed hearing procedures to the Dischargers (Enclosure 7). The certified letters containing the hearing procedures were refused at the Swiss Mart Gas Station address and were undeliverable at the corporation address as the corporation moved and left no forwarding address (Enclosures 8, 9, and 10).

On January 23, 2009, the Water Boards' Assistant Executive Officer issued to the Dischargers written materials for consideration of the ACL (Enclosure 11). The certified letters containing the written materials were refused again at the Swiss Mart Gas Station address and were undeliverable at the corporation address as the corporation moved and left no forwarding address (Enclosures 12, 13, and 14).

On January 20, 2009, a 30-day comment period was published in the Tahoe Daily Tribune for ACL Complaint R6T-2008-0021. The comment period ended February 25, 2009, at 5:00 p.m. (Enclosure 15).

RECOMMENDATION:

Adoption of the Administrative Civil Liability Order as proposed (Enclosure 1).

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ENCLOSURES:

1. Proposed Administrative Civil Liability Order
2. Westlaw printout of property owner at 913 Emerald Bay Road, South Lake Tahoe
3. October 16, 2008 letter to Dischargers offering settlement meeting
4. Administrative Civil Liability Complaint No. R6T-2008-0021
5. Accepted certified letter containing ACL Complaint R6T-2008-0021 by Kang Property, Inc.
6. Refused certified letter containing ACL Complaint R6T-2008-0021 by Sarbjit S. Kang at Swiss Mart Gas Station
7. January 16, 2009 letter to Dischargers of hearing procedures
8. Refused certified letter containing written materials by Sarbjit S. Kang at Swiss Mart Gas Station
9. Undeliverable certified letter containing written materials by Sarbjit S. Kang at Pleasant Hill address
10. Undeliverable certified letter containing written materials by Kang Property, Inc., at Pleasant Hill address
11. January 23, 2009 letter to Dischargers of written materials
12. Refused certified letter containing written materials by Sarbjit S. Kang at Swiss Mart Gas Station
13. Undeliverable certified letter containing written materials by Sarbjit S. Kang at Pleasant Hill address
14. Undeliverable certified letter containing written materials by Kang Property, Inc., at Pleasant Hill address
15. Proof and Statement of Publication for Public Hearing for ACL Complaint R6T-2008-0021

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ENCLOSURE 1

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**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION**

ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R6T-2009-(PROPOSED)

**ADMINISTRATIVE CIVIL LIABILITY ORDER
AGAINST SARBJIT S. KANG AND KANG PROPERTY, INCORPORATED
FOR VIOLATIONS OF (1) CALIFORNIA WATER CODE SECTION 13267 AND
(2) CALIFORNIA WATER CODE SECTION 13304 -
SWISS MART GAS STATION, EL DORADO COUNTY**

The California Regional Water Quality Control Board – Lahontan Region (Lahontan Water Board) finds that Sarbjit S. Kang and Kang Property, Incorporated have violated the following:

- A. Water Code section 13267 by failing to submit required reports and documentation by their due dates, as required by Cleanup and Abatement Order (CAO) No. R6T-2007-0029.
- B. Water Code section 13304 by failing to implement cleanup and abatement measures as required by CAO No. R6T-2007-0029.

A hearing on Complaint No. R6T-2008-0021 was held before the Lahontan Water Board on March 11-12, 2009. Based upon evidence and testimony received at the hearing, the Lahontan Water Board makes the following findings:

1. Dischargers

Kang Property, Incorporated, a California corporation (corporate number C2472703), is the legal owner of El Dorado County Assessor Parcel Number (APN) 023-181-19-10 (Property). The Swiss Mart Gas Station is located on the Property. As the legal owner of the Property, Kang Property, Incorporated is responsible for activities that take place on the Property. Kang Property, Incorporated is a discharger identified in CAO No. R6T-2007-0029, and is responsible for complying with the requirements specified by that CAO.

Sarbjit S. Kang is identified as the operator of the underground storage tanks on the operating permit for the Swiss Mart Gas Station, according to the El Dorado County Department of Environmental Management (County). Sarbjit S. Kang is a discharger identified in CAO No. R6T-2007-0029, and is responsible for complying with the requirements specified by that CAO.

Kang Property, Incorporated and Mr. Sarbjit S. Kang are hereinafter referred to as the "Dischargers."

2. Property

The Property (APN 023-181-19-10) is located at 913 Emerald Bay Road in South Lake Tahoe, El Dorado County (See Attachment A – Vicinity Map.)

3. Facility

Swiss Mart Gas Station. The Property contains a gas station and food mart. Based on the underground storage tank operating permit issued by the County, there is one regular, unleaded tank and one super, unleaded tank on the Property. Three dispenser islands are used to dispense gasoline.

4. Discharge

Pollution of groundwater beneath the Property was verified by the Dischargers during an August 2007 groundwater investigation required by the Lahontan Water Board. The pollution was likely a result of an unauthorized vapor release of petroleum hydrocarbons from the dispensers or underground storage tank system. The pollution was also identified in a domestic well at 883 Eloise Avenue, located about 500 feet to the east of the Property.

5. Enforcement History

In response to the unauthorized discharge of petroleum hydrocarbons to groundwaters of the Lake Tahoe Hydrologic Unit and threats to beneficial uses, the Lahontan Water Board Executive Officer issued CAO No. R6T-2007-0029, pursuant to Water Code section 13304 (a), on December 14, 2007. Among other requirements, the CAO required the Dischargers to take the following cleanup actions: (1) provide alternate water supply to the affected domestic well owner; (2) identify and stop the source of the release, (3) conduct groundwater monitoring and submit technical reports, (4) conduct interim remediation to contain plume migration, (5) investigate the extent of the discharge, and (6) propose clean up of contamination in soil and groundwater.

On January 30, 2008, the Lahontan Water Board Executive Officer issued a Notice of Violation citing the Dischargers' failure to submit required technical information and implement corrective actions by deadlines listed in CAO No. R6T-2007-0029.

6. Violation – Water Code section 13267

Water Code section 13267, subdivision (b)(1) states, in part,

“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 ...waste within 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.”

As of November 10, 2008, the Dischargers have violated Water Code section 13267 subdivision (b)(1) in 11 of 14 CAO directives by failing to submit the following reports and/or documentation by specified due dates:

Directive No. 4.2 – Dischargers did not submit a technical report, as required, until June 9, 2008, **164 days** past the deadline of December 28, 2007. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13268.

Directive No. 5.1. – Dischargers failed to submit a letter proposing to investigate the release until August 15, 2008, **240 days** past the deadline of December 19, 2007. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13268.

Directive No. 5.2. – Dischargers failed to implement the release investigation, as required, until August 26, 2008, **249 days** past the deadline of December 21, 2007. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13268.

Directive No. 5.4. – Dischargers failed to submit a technical report to the Lahontan Water Board describing the release investigation conducted at the Facility until September 11, 2008, **259 days** past the deadline of December 24, 2007. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13268.

Directive No. 6.1. – Dischargers failed to implement groundwater monitoring at the site until March 5, 2008, **66 days** past the deadline of December 30, 2007. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13268.

Directive No. 6.2. – Dischargers failed to submit the groundwater monitoring report required pursuant to Directive 6.2, until June 9, 2008, **109 days** past the deadline of February 20, 2008. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13268.

Directive No. 6.2. – Dischargers failed to submit the First Quarter 2008 monitoring report required pursuant to Directive 6.2 until June 9, 2008, **20 days** past the deadline of May 20, 2008. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13268.

Directive No. 7.2. – Dischargers failed to implement the interim remediation workplan, as required pursuant to Directive 7.2, until June 9, 2008, **146 days**

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past the deadline of January 15, 2008. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13268.

Directive No. 7.3. – Dischargers failed to submit a technical report describing interim remediation until June 9, 2008, **102 days** past the deadline of February 28, 2008. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13268.

Directive No. 8.1. – Dischargers failed to submit a workplan describing means to investigate the extent of petroleum contamination in soil and groundwater at the Facility, until August 28, 2008, **195 days** past the deadline of February 15, 2008. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13268.

Directive No. 8.2. – Dischargers failed to implement a site investigation, as required pursuant to Directive 8.2, until October 6, 2008, **205 days** past the deadline of March 15, 2008. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13268.

Directive No. 8.3. – Dischargers failed to submit a technical report describing results of the site investigation until November 10, 2008, **189 days** past the deadline of May 5, 2008. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13268.

7. Violation – Water Code section 13304

Water Code section 13304, subdivision (a) states, in part,

“Any person who has discharged or discharges waste into waters of the state ... shall upon order of the regional board, clean up the waste or abate the effects of the waste A cleanup and abatement order ... may require the provision of, or payment for, uninterrupted replacement water service ...”

As of November 10, 2008, the Dischargers have violated Water Code section 13304 in two CAO directives:

Directive No. 4.1. – Dischargers did not provide alternate supply of clean water to the occupants at 883 Eloise Avenue until June 9, 2008, **173 days** past the deadline of December 19, 2007. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13350.

Directive No 5.3. – Dischargers failed to abate any and all releases from the Facility until the Enhanced Leak Detection test was completed on August 26, 2008, **246 days** past the deadline of December 24, 2007. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13350.

8. Authority and Maximum Potential Civil Liability – Water Code section 13268

Water Code section 13268, subdivision (a)(1) authorizes the Lahontan Water Board to impose civil liability for violations of Water Code section 13267 orders for information. Water Code section 13268, subdivision (a)(1) states:

“Any person failing or refusing to furnish technical or monitoring program reports as required by subdivision (b) of Section 13267... is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b).”

The Dischargers violated Water Code section 13267 for failing to submit technical reports and documentation as described in Finding No. 6 above.

Water Code section 13268, subdivision (b)(1) specifies the maximum potential liability the Lahontan Water Board may impose under Water Code section 13268, subdivision (a)(1). Water Code section 13268, subdivision (b)(1) states:

“Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (a) in an amount which shall not exceed one thousand dollars (\$1,000) for each day in which the violation occurs.”

For each period of violation of directives in the CAO, the Lahontan Water Board calculated the civil liability as follows:

- a. The Dischargers violated directive No. 4.2 in CAO No. R6T-2007-0029.

The maximum amount of civil liability for violation of directive No. 4.2 of the CAO under Water Code section 13268, subdivision (b)(1) is \$164,000 for 164 days of violations. This maximum administrative liability is based upon:

(164 days of violations of directive No. 4.2) x (\$1,000/day of violation) =
\$164,000

- b. The Dischargers violated three requirements under directive No. 5 in CAO No. R6T-2007-0029.

i. The maximum amount of civil liability for violation of directive No. 5.1 of the CAO under Water Code section 13268, subdivision (b)(1) is \$240,000 for 240 days of violations. This maximum administrative liability is based upon:

(240 days of violations of directive No. 5.1) x (\$1,000/day of violation) =
\$240,000

- ii. The maximum amount of civil liability for violation of directive No. 5.2 of the CAO under Water Code section 13268, subdivision (b)(1) is \$249,000 for 249 days of violations. This maximum administrative civil liability is based upon:

$$(249 \text{ days of violations of directive No. 5.2}) \times (\$1,000/\text{day of violation}) =$$

\$249,000

- iii. The maximum amount of civil liability for violation of directive No. 5.4 of the CAO under Water Code section 13268, subdivision (b)(1) is \$259,000 for 259 days of violations. This maximum administrative liability is based upon:

$$(259 \text{ days of violations of directive No. 5.4}) \times (\$1,000/\text{day of violation}) =$$

\$259,000

- c. The Dischargers violated two requirements on three occasions under directive No. 6 in CAO No. R6T-2007-0029.

- i. The maximum amount of civil liability for violation of directive No. 6.1 of the CAO under Water Code section 13268, subdivision (b)(1) is \$66,000 for 66 days of violations. This maximum administrative civil liability is based upon:

$$(66 \text{ days of violations of directive No. 6.1}) \times (\$1,000/\text{day of violation}) =$$

\$66,000

- ii. The maximum amount of civil liability for the first violation of directive No. 6.2 of the CAO under Water Code section 13268, subdivision (b)(1) is \$109,000 for 109 days of violations. This maximum administrative liability is based upon:

$$(109 \text{ days of violations of directive No. 6.2}) \times (\$1,000/\text{day of violation}) =$$

\$109,000

- iii. The maximum amount of civil liability for the second violation of directive No. 6.2 of the CAO under Water Code section 13268, subdivision (b)(1) is \$20,000 for 20 days of violations. This maximum administrative liability is based upon:

$$(20 \text{ days of violations of directive No. 6.2}) \times (\$1,000/\text{day of violation}) =$$

\$20,000

d. The Dischargers violated two requirements under directive No. 7 in CAO No. R6T-2007-0029.

i. The maximum amount of civil liability for violations of directive No. 7.2 of the CAO under Water Code section 13268, subdivision (b)(1) is \$1246,000 for 146 days of violations. This maximum administrative civil liability is based upon:

$$(146 \text{ days of violations of directive No. 7.2}) \times (\$1,000/\text{day of violation}) =$$

\$146,000

ii. The maximum amount of civil liability for violations of directive No. 7.3 of the CAO under Water Code section 13268, subdivision (b)(1) is \$102,000 for 102 days of violations. This maximum administrative liability is based upon:

$$(102 \text{ days of violations of directive No. 7.3}) \times (\$1,000/\text{day of violation}) =$$

\$102,000

e. The Dischargers violated three requirements under directive No. 8 in CAO No. R6T-2007-0029.

i. The maximum amount of civil liability for violations of directive No. 8.1 of the CAO under Water Code section 13268, subdivision (b)(1) is \$195,000 for 195 days of violations. This maximum administrative liability is based upon:

$$(195 \text{ days of violations of directive No. 8.1}) \times (\$1,000/\text{day of violation}) =$$

\$195,000

ii. The maximum amount of civil liability for violations of directive No. 8.2 of the CAO under Water Code section 13268, subdivision (b)(1) is \$205,000 for 205 days of violations. This maximum administrative civil liability is based upon:

$$(205 \text{ days of violations of directive No. 8.2}) \times (\$1,000/\text{day of violation}) =$$

\$205,000

iii. The maximum amount of civil liability for violations of directive No. 8.3 of the CAO under Water Code section 13268, subdivision (b)(1) is \$189,000 for 189 days of violations. This maximum administrative liability is based upon:

$$(189 \text{ days of violations of directive No. 8.3}) \times (\$1,000/\text{day of violation}) =$$

\$189,000

9. Authority and Maximum Potential Civil Liability – Water Code section 13350

Water Code section 13350, subdivision (a)(1) authorizes the Lahontan Water Board to impose civil liability for violations of a cleanup and abatement order. Water Code section 13350, subdivision (a)(1) states:

“Any person who (1) violates any cease and desist order or cleanup and abatement order hereafter issued, reissued, or amended by a regional board or the state board...shall be liable civilly, and remedies may be proposed, in accordance with subdivision (d) or (e).”

Water Code section 13350 subdivision (e) specifies the maximum potential liability the Lahontan Water Board may impose under Water Code section 13350, subdivision (a)(1). Water Code section 13350, subdivision (e) states:

“The state board or a regional board may impose civil liability administratively pursuant to Article 2.5 (commencing with section 13323) of Chapter 5 either on a daily basis or on a per gallon basis, but not both.

(1) The civil liability on a daily basis may not exceed five thousand dollars (\$5,000) for each day the violation occurs. “

The Dischargers violated Water Code section 13304 by failing to conduct abatement activities as described in Finding No. 7 above.

- a. The maximum amount of civil liability for violation of directive No. 4.1 of the CAO under Water Code section 13350, subdivision (e)(1) is \$865,000 for 173 days of violations. This maximum administrative civil liability is based upon:

(173 days of violations of directive No. 4.1) x (\$5,000/day of violation) =
\$865,000

For purposes of calculating the violation period, the Lahontan Water Board used June 9, 2008 as the end date of the violation period, which is when the First Quarter 2008 Groundwater Monitoring Report was received (December 19, 2007 – June 9, 2008 = 173 days).

- b. The maximum amount of civil liability for violation of directive No. 5.3 of the CAO under Water Code section 13350, subdivision (e)(1) is \$1,230,000 for 246 days of violations. This maximum administrative civil liability is based upon:

(246 days of violations of directive No. 5.3) x (\$5,000/day of violation) =
\$1,230,000

For purposes of calculating the violation period, the Lahontan Water Board used August 26, 2008 as the end date of the violation period, which is when the Enhanced Leak Detection test was completed (December 24, 2007 – August 26, 2008 = 246 days).

10. Maximum Potential Civil Liability

The cumulative maximum potential liability for the violations identified above is **\$4,039,000**. This is based upon the methods for calculating the maximum potential liability as defined by Water Code sections 13268 and 13350, and also described above in Findings No. 6-9.

11. Factors Affecting the Amount of Civil Liability

Water Code section 13327 and Water Code section 13351 require the Lahontan Water Board to consider enumerated factors when it determines the amount of civil liability for a discharge covered by sections 13268 and 13350, respectively. The Lahontan Water Board considered those factors, discussed below, in determining the amount of the administrative civil liability:

a. The nature, circumstances, extent, and gravity of the violations;

Violating a CAO, classified as a "formal" enforcement action by the Water Quality Enforcement Policy, is a serious offense. Violating directive No. 4 of CAO No. R6T-2007-0029 prevented the occupants of 883 Eloise Avenue from using and enjoying water from their domestic well. Violating directive No. 5 of the CAO prevented Lahontan Water Board staff from finding out the source or cause of the petroleum release adversely affecting water quality. The Dischargers' violation of directive No. 6 prevented knowledge of the fate and migration of petroleum hydrocarbons detected beneath the Facility for nine months following submittal of the September 27, 2007 groundwater report. Violation of directive No. 7 prevented abatement and containment of hydrocarbons in groundwater beneath the Facility and sooner enjoyment of beneficial uses located in the downgradient flow direction. Finally, the Dischargers' violation of directive No. 8 prevents Lahontan Water Board staff from knowing if petroleum products that could affect water quality in the future remain in the vadose zone at the Facility. As a result of failing to comply with these five directives, staff has needed to conduct verification well sampling at the Facility and at 883 Eloise Avenue, which diverts resources away from other Lahontan Water Board work.

b. Whether discharge is susceptible to cleanup or abatement;

The discharge of petroleum products to groundwater is susceptible to cleanup and abatement. For a past release at the Facility, the operator arranged for a carbon canister to be plumbed to the domestic well at 883 Eloise Avenue to remove petroleum hydrocarbons from the well water. A pump and treat system exists at the Facility from prior contamination and could have been re-started to contain plume migration from threatening other beneficial uses besides the affected domestic well at 883 Eloise Avenue. In addition, the Dischargers proposed implementing interim remediation by use of portable high vacuum dual-phase extraction equipment. This proposal was conditionally accepted by Lahontan Water Board staff on January 8, 2008. As of June 9, 2008, when the First Quarter 2008 Monitoring Report was received, the Dischargers had not taken corrective action to abate or contain petroleum hydrocarbons from migration in groundwater.

c. The degree of toxicity of the discharge;

Groundwater at the site contained gasoline-range petroleum hydrocarbons and known toxic volatile organic carbons, including benzene, toluene, ethylbenzene, xylenes, and trimethylbenzenes. Concentrations of these petroleum constituents in groundwater exceed drinking water standards and public health goals. Levels of benzene in groundwater at the Facility and the domestic well at 883 Eloise Avenue exceed the one-in-a-million risk level for cancer. Since no corrective action was taken by the Dischargers, the fate and migration of the petroleum constituents in groundwater is unknown.

d. Ability to pay;

In addition to the Facility, Kang Property, Incorporated currently owns property zoned for use as service stations at:

- 1140 Emerald Bay Road, South Lake Tahoe, CA (APN 023-181-191 & APN 032-141-3510)
- 7920 Brentwood Boulevard, Brentwood, CA (APN 016-150-025-1)
- 425 Moraga Road, Moraga, CA (APN 256-070-001-1)
- 4480 Chiles Road, Davis, CA (APN 069-070-10-1)
- 4949 County Road 89, Yolo County, CA (APN 052-020-04-1)
- 4300 Watt Avenue, Sacramento, CA (APN 240-0232-058-0)

Kang Property, Incorporated also owns the following property:

- 1122 Emerald Bay Road, South Lake Tahoe, CA (APN 032-141-041 [vacant lot])

Given the assets described above, the Lahontan Water Board finds that the Dischargers are able to pay the liability.

- e. The effect on the Dischargers' ability to continue its business;

Lahontan Water Board staff is not aware of any reason that the Dischargers' ability to continue their business would be affected by the proposed liability. The Dischargers own and operate multiple gas stations in California.

- f. Any voluntary cleanup efforts undertaken by the violator;

To date, the Dischargers have only implemented corrective actions at the site when ordered to by the Lahontan Water Board in CAO No. R6T-2007-0029 and Water Code section 13267 orders.

- g. Prior history of violations;

Sarbjit S. Kang has a history of violations in complying with directives for clean up at the Facility and another facility. On October 13, 1999, the Lahontan Water Board issued Administrative Civil Liability Order No. 6-99-46 to Mr. Kang and other parties in the amount of \$95,000 for non-compliance of Amended CAO 6-98-78A1. \$31,250 of this liability was never paid and is still owed. On the same date, the Lahontan Water Board issued Administrative Civil Liability Order No. 6-99-47 to Mr. Kang and other parties in the amount of \$59,000 for non-compliance of other directives in Amended CAO 6-98-78A1. \$25,850 of this liability was never paid and is still owed. Civil liabilities in both Orders were assessed at the rate of \$1,000 per day of violation. In addition, on October 13, 1999, the Lahontan Water Board issued Administrative Civil Liability Order No. 6-99-50 to Mr. Kang and another party in the amount of \$112,500 for non-compliance of a cleanup and abatement order at another gas station in which Mr. Kang was the operator. The civil liability was assessed in Order No. 6-99-50 at the rate of \$500 per day of violation.

- h. Degree of culpability;

Sarbjit S. Kang and Kang Property, Inc. are identified as the "Dischargers" by CAO No. R6T-2007-0029 and, thus, are ultimately responsible for compliance with CAO No. R6T-2007-0029, and applicable state laws and regulations. Despite issuance of a Notice of Violation on January 30, 2008 and repeated contacts between Lahontan Water Board staff and the Dischargers' consultant, during which violations were discussed, the Dischargers failed to comply with applicable requirements.

- i. Economic savings resulting from the violation;

Lahontan Water Board staff has calculated the Discharger's cost savings associated with violating the CAO. The nature of such cost savings would be

“avoided costs” and “delayed costs.” Avoided costs include those associated with quarterly monitoring and reporting, conducting interim remediation, and providing replacement drinking water for the residence at 883 Eloise Avenue. Estimated avoided costs are \$37,000. Delayed cost savings would be the potential interest earned on the delayed costs, which given the short violation period addressed by this Complaint would be small and substantially less than the proposed liability.

- j. Other matters as justice may require.

Staff Costs

Staff from the State and Regional Water Boards have spent time responding to the incident and preparing the Administrative Civil Liability Complaint. Estimated staff costs for investigation and complaint preparation are **\$26,823**.

12. Administrative Civil Liability Complaint Issued by Assistant Executive Officer

The Lahontan Water Board’s Assistant Executive Officer issued Administrative Civil Liability Complaint No. R6T-2008-021 to the Dischargers on December 19, 2008. The Complaint states that the Dischargers violated 13 of 16 directives in the CAO, even after a Notice of Violation was issued on January 30, 2008. The Complaint recommends an administrative civil liability in the amount of \$403,900 for violations of (1) California Water Code Section 13267 and (2) California Water Code Section 13350.

13. California Environmental Quality Act

This enforcement action is being taken by the Lahontan Water Board to enforce provisions of the Water Code and, as such, is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 210000 et seq.) in accordance with California Code of Regulations, title 14, section 15321.

IT IS HEREBY ORDERED THAT:

1. Administrative Civil Liability recommended in Complaint No. R6T-2008-0021, which was issued by Robert S. Dodds, Assistant Executive Officer, on December 19, 2008, is hereby affirmed.
2. The Lahontan Water Board imposes administrative civil liability against the Dischargers in the amount of \$403,900.
3. The Dischargers must provide payment with a cashier’s check or money order in the amount of **\$194,400** to the State Board’s Cleanup and Abatement Account by **April 11, 2009**.

The Dischargers must provide payment with a cashier's check or money order in the amount of **\$209,500** to the State Board's Waste Discharge Permit Fund by **April 11, 2009**.

4. If the Dischargers fail to make the specified payment to the State Board's Cleanup and Abatement Account and Waste Discharge Permit Fund within the time limits specified in this Order, the Lahontan Water Board may enforce this Order by applying for a judgment pursuant to Water Code section 13328. The Lahontan Water Board's Executive Officer is hereby authorized to pursue a judgment pursuant to Water Code section 13328 if the criterion specified in this paragraph is satisfied.

I, Harold J. Singer, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Lahontan Region, on March 11, 2009.

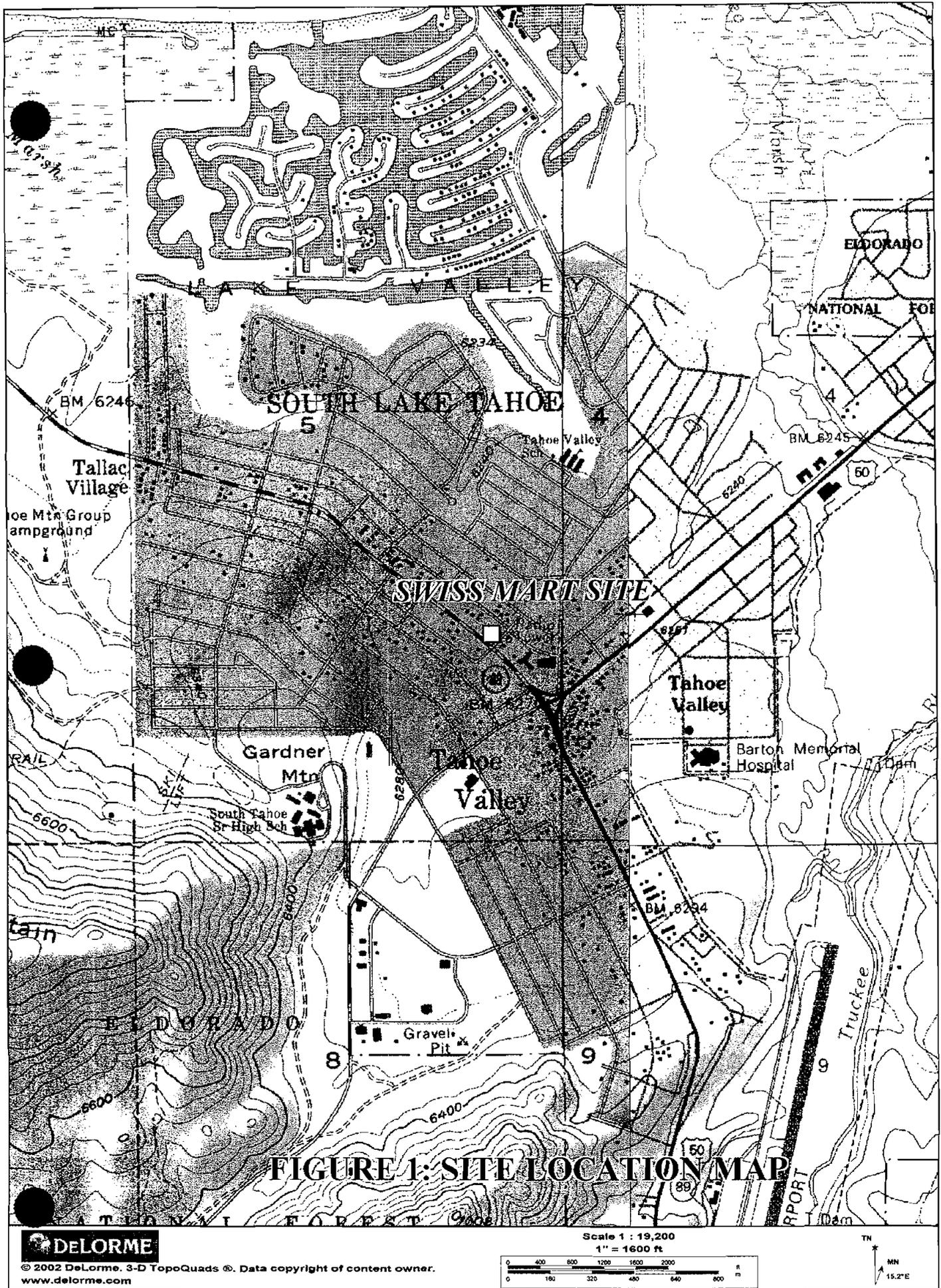
HAROLD J. SINGER
EXECUTIVE OFFICER

Attachments: Attachment A: Vicinity Map – Swiss Mart Gas Station
 Attachment B: Site Map – Swiss Mart Gas Station

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ATTACHMENT A

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05-0019

ATTACHMENT B

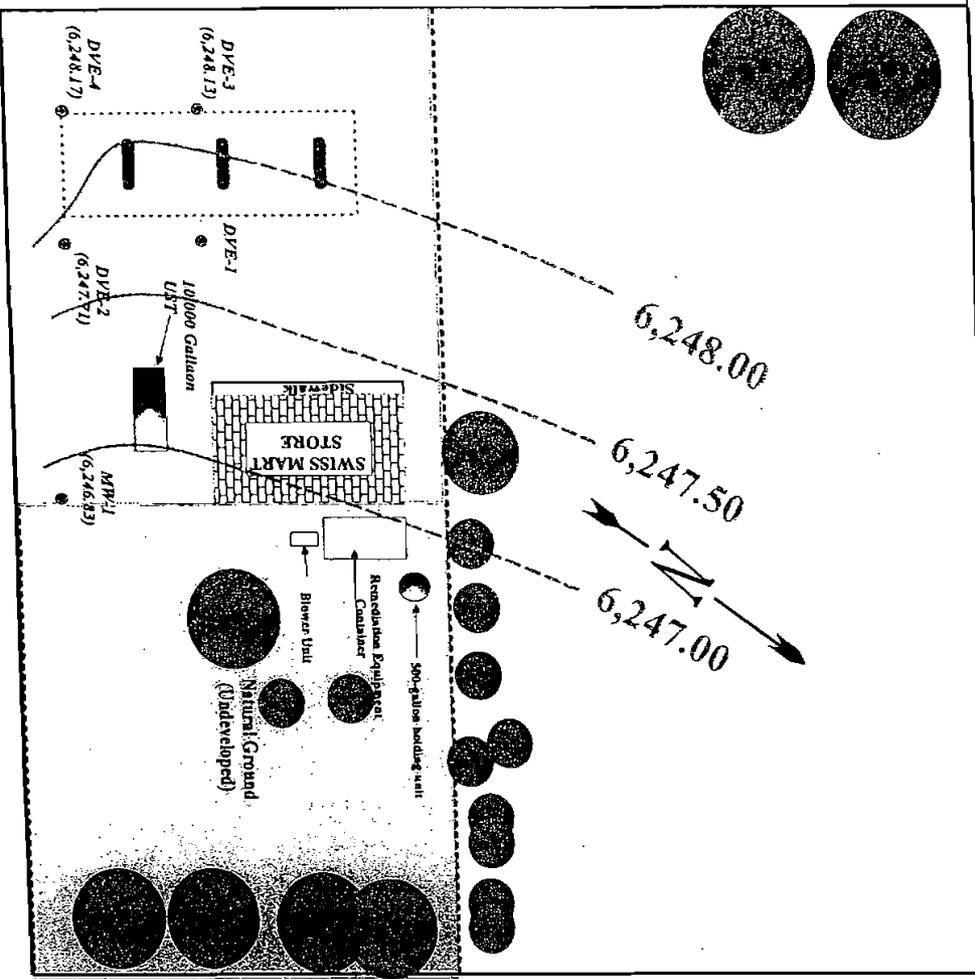
05-0020

EMERALD BAY DRIVE

FIFTH STREET

JAMES AVENUE

JAMES AVENUE



Appropriate Direction of
Groundwater Flow 03/05/08

LARDO & ASSOCIATES, INC.
Environmental and Geological Services

GROUNDWATER CONTOUR MAP: SWISS MART SITE
Project 002108 South Lake Tahoe Site, (March 5, 2008)

05-0021

ENCLOSURE 2

05-0022

REAL PROPERTY TAX ASSESSOR RECORD

Tax Roll Certification Date:12-31-2006
Owner Information Current Through:06-17-2008
County Last Updated:07-01-2008
Current Date:07/23/2008
Source: TAX
ASSESSOR

EL DORADO, CALIFORNIA

OWNER INFORMATION

Owner(s): KANG PROPERTY INC
Corporate Owner: YES
Ownership Rights: CORPORATION
Absentee Owner: YES
Property Address: 913 EMERALD BAY RD
SOUTH LAKE TAHOE, CA 96150-6411
Mailing Address: 61 CHILPANCINGO PKWY
PLEASANT HILL, CA 94523-1300

PROPERTY INFORMATION

County: EL DORADO
Assessor's Parcel Number: 023-181-19-10
Property Type: SERVICE
Land Use: SERVICE STATION
Zoning: TC
Subdivision: TAMARACK
Legal Description: L 8 B B 3
Block Number: B
Lot Number: 8

TAX ASSESSMENT INFORMATION

Tax Year: 2006
Calculated Land Value: \$95,500.00
Calculated Improvement Value: \$124,207.00
Assessed Total Value: \$219,707.00
Valuation Method: ASSESSED
Tax Amount: \$2,477.26
Tax Code Area: 002002

LAST FULL MARKET SALE INFORMATION

Sale Date: 05/20/2002

05-0023

ENCLOSURE 3

05-0024



State Water Resources Control Board



inda S. Adams
Secretary for
Environmental Protection

Office of Enforcement
1001 I Street, 16th Floor, Sacramento, California 95814
P.O. Box 100, Sacramento, California 95812-0100
(916) 341-5272 ♦ FAX (916) 341-5896 ♦ <http://www.waterboards.ca.gov>

Arnold Schwarzenegger
Governor

October 16, 2008

CERTIFIED MAIL
NO. 7003 3110 0003 0767 3719
RETURN RECEIPT REQUESTED

Mr. Sarbjit S. Kang
Swiss Mart Gas Station
913 Emerald Bay Road
South Lake Tahoe, CA 96150

CERTIFIED MAIL
NO. 7003 3110 0003 0767 3726
RETURN RECEIPT REQUESTED

Kang Property, Inc.
c/o Mr. Sarbjit S. Kang
61 Chilpancino Parkway
Pleasant Hill, CA 94523

Dear Mr. Kang:

FAILURE TO COMPLY WITH CLEANUP AND ABATEMENT ORDER NO. R6T-2007-0029

The Assistant Executive Officer of the Lahontan Regional Water Quality Control Board (Lahontan Water Board) has requested that the State Water Resources Control Board, Office of Enforcement provide legal representation in the pursuit of administrative enforcement relating to your and Kang Property Inc.'s failure to comply with Cleanup and Abatement Order No. R6T-2007-0029, issued by the Lahontan Water Board.

My review of the record indicates the maximum potential civil liability for these violations pursuant to California Water Code sections 13268 and 13350 is in excess of \$4,500,000 dollars. Our office considers these violations to be serious and subject to substantial civil penalties.

Prior to prosecuting these violations, we offer you the opportunity to discuss the facts regarding the alleged violations and the potential for resolving this matter through settlement. If you wish to avail yourself and Kang Property, Inc. of this opportunity, please contact me on or before **October 27, 2008**. Failure to contact me by this date will result in the issuance of an Administrative Civil Liability Complaint.

Mr. Sarbjit S. Kang

- 2 -

October 16, 2008

I may be reached at (916) 341-5276, or dboyers@waterboards.ca.gov.

Sincerely,

David Boyers

David Boyers
Senior Staff Counsel
Office of Enforcement

cc: [Via e-mail only]

Mr. Robert Dodds
Assistant Executive Officer
Lahontan Regional Water Quality
Control Board
2501 Lake Tahoe Boulevard
South Lake Tahoe, CA 96150

05-0026

ENCLOSURE 4

05-0027



California Regional Water Quality Control Board
Lahontan Region



Linda S. Adams
Secretary for
Environmental Protection

2501 Lake Tahoe Boulevard, South Lake Tahoe, California 96150
(530) 542-5400 • Fax (530) 544-2271
www.waterboards.ca.gov/lahontan

Arnold Schwarzenegger
Governor

December 19, 2008

Sarbjit S. Kang
Swiss Mart Gas Station
913 Emerald Bay Road
South Lake Tahoe, CA 96150

CERTIFIED MAIL: 7007 3020 0001 0921 1946

Kang Property, Inc.
c/o Mr. Sarbjit S. Kang
61 Chilpancino Parkway
Pleasant Hill, CA 94523

CERTIFIED MAIL: 7006 2760 0003 9496 7431

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R6T-2008-0021

Enclosed please find Administrative Civil Liability Complaint (Complaint) No. R6T-2008-0021 against Kang Property Inc. and Mr. Sarbjit Kang (together "Dischargers") for failure to comply with requirements of Cleanup and Abatement Order No. R6T-2007-0029. The Complaint recommends the California Regional Water Quality Control Board, Lahontan Region (Water Board), impose a civil liability of \$403,900 for these violations.

Waiver of Hearing

Pursuant to Water Code section 13323, the Water Board will hold a hearing on the Complaint no later than 90 days after it is served. The Dischargers may elect to waive their right to a hearing before the Water Board and agree to pay the proposed liability. Waiver of the hearing constitutes admission of the validity of the allegations of violation in the Complaint and acceptance of the assessment of civil liability in the amount of \$403,900 as set forth in the Complaint. If the Dischargers wish to exercise this option, it must complete the following:

1. **By 5:00 p.m., January 26, 2009**, an authorized agent must sign the enclosed waiver and submit it to the Water Board, along with cashier's checks in the amount of \$194,400 made payable to the "State Water Pollution Cleanup and Abatement Account" and \$209,500 made payable to the "State Waste Discharge Permit Fund";
2. **By January 30, 2009**, the Dischargers must publish the enclosed public notice in the Tahoe Daily Tribune; and
3. **By 5:00 p.m., February 2, 2009**, the Dischargers must submit verification to the Water Board that the enclosed public notice has been published.

Please note that the Dischargers' waiver and agreement to pay the proposed liability constitutes a proposed settlement that will not become final until after a 30-day public comment period, as provided by the State Water Resources Control Board Water

Quality Enforcement Policy (version dated February 12, 2002). As described in the enclosed waiver, the Water Board Assistant Executive Officer may withdraw the Complaint, return payment and issue a new complaint should new information be received during the comment period. If no information is received which causes to the Assistant Executive Officer to withdraw the Complaint, the settlement will be brought before the full Water Board for approval at a future meeting. **The settlement will not be effective until approved by the Water Board.**

Public Hearing

Alternatively, if the Dischargers elect to proceed to a public hearing, a hearing is tentatively scheduled to be held at the Water Board meeting on March 11-12, 2009. The meeting is scheduled to convene at a time and location as announced in the Water Board meeting agenda. The agenda will be issued at least ten days before the meeting and will be posted on the Water Board web page at <http://waterboards.calgov/lahontan>. At that time, the Regional Board will accept testimony and public comment and decide whether to affirm, reject, or modify the proposed liability, or whether to refer the matter for judicial civil action.

Enclosed you will also find a draft of the procedures I am recommending that the Water Board follow in conducting the hearing. Please note that comments on the proposed procedures are **due by January 5, 2009** to the Water Board's advisory attorney, David Coupe.

Please contact State Water Resources Control Board Office of Enforcement Attorney David Boyers at (916) 341-5276 or Ms. Lisa Dernbach at (530) 542-5424 or via e-mail at ldernbach@waterboards.ca.gov if you have any questions concerning this matter.



Robert S. Dodds
Assistant Executive Officer

- Enclosures:
1. Complaint No. R6T-2008-0021
 2. Waiver of Public Hearing Form
 3. Public Notice of Waiver
 4. Proposed Draft – Notice of Public Hearing

cc: Harold J. Singer, Executive Officer/Water Board
David Boyers, Senior Staff Counsel/SWRCB, Enforcement
David Coupe, Staff Counsel/SWRCB
Swiss Mart mailing list

LSD/chT: Swiss Mart Complaint Transmittal Letter
[Swiss Mart Complaint Transmittal Letter.doc]

MAILING LIST
SWISS MART GAS STATION

Virginia Huber
El Dorado County
Dept. of Environmental
Management,
3368 Lake Tahoe Blvd., #303
South Lake Tahoe, CA 96150

Richard Solbrig
South Tahoe Public Utility District
1275 Meadow Crest Drive
South Lake Tahoe, CA 96150

Danny Lukins
Lukins Brothers Water Company
2031 West Way
South Lake Tahoe, CA 96150

City Manager
City of South Lake Tahoe
1901 Airport Road
South Lake Tahoe, CA 96150

Gabe Litvin
Stanford Sierra Programs
P.O. Box 10618
South Lake Tahoe, CA 96158-3618

Michael Schneeweis
903 Eloise Ave
South Lake Tahoe, CA 96150

Pat Baginski
Tahoe Outdoor Living
828 Eloise Ave
South Lake Tahoe, CA 96150

Gallardo & Associates, Inc.
304 Belle Court
El Dorado Hills, CA 95762

SWRCB, Div. of Water Quality
UST Cleanup Fund
P. O. Box 100
Sacramento, CA 95812-0100

ENCLOSURE 1

05-0031



**California Regional Water Quality Control Board
Lahontan Region**



Linda S. Adams
Secretary for
Environmental Protection

2501 Lake Tahoe Boulevard, South Lake Tahoe, California 96150
(530) 542-5400 • Fax (530) 544-2271
www.waterboards.ca.gov/lahontan

Arnold Schwarzenegger
Governor

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION**

In the Matter of Sarbjit S. Kang and) COMPLAINT NO.
Kang Property, Inc.: Violation of) R6T-2008-0021
Cleanup and Abatement Order (CAO)) FOR ADMINISTRATIVE
No. R6T-2007-0029, 913 Emerald Bay Road,) CIVIL LIABILITY
South Lake Tahoe, El Dorado County	

SARBJIT S. KANG AND KANG PROPERTY, INCORPORATED, YOU ARE HEREBY GIVEN NOTICE THAT:

1. You are charged with violating provisions of law and regulations for which the California Regional Water Quality Control Board, Lahontan Region (Water Board) may impose administrative civil liability pursuant to Water Code section 13350, subdivision (a)(1) and Water Code section 13268, subdivision (a)(1) .
2. Unless waived, a hearing on this matter will be held before the Water Board within 90 days following the issuance of this Complaint. Sarbjit S. Kang and Kang Property, Inc., or their representative(s), will have an opportunity to address and contest the allegations in this Complaint and the imposition of civil liability by the Water Board.
3. At the hearing, the Water Board will consider whether to affirm, reject, or modify (either increase or decrease) the proposed civil liability, or whether to refer the matter to the Attorney General for assessment of judicial civil liability.

ALLEGATIONS

4. The Swiss Mart Gas Station ("Facility") is located at 913 Emerald Bay Road in the City of South Lake Tahoe, El Dorado County, as shown in Attachment A of this Complaint.
5. Kang Property, Incorporated, is the property owner of the Facility, on record with El Dorado County. Sarbjit S. Kang is the operator of the underground storage tanks at the Facility, according to El Dorado County Department of Environmental Management. Both Sarbjit S. Kang and Kang Property, Inc. are identified in CAO No. R6T-2007-0029 as the parties responsible for complying with the Order. For the purposes of this Complaint, these two parties will be hereinafter referred to as the "Dischargers."

6. Sarbjit S. Kang and other parties were the subject of CAO No. 6-98-78 issued in 1998 and an amendment issued in 1999 for petroleum releases at the Facility adversely affecting groundwater quality, a municipal well, and two domestic wells in the area. Between 1999 and 2007, Sarbjit S. Kang and the other parties had a sporadic record of compliance with Amended CAO 6-98-78A1. Six Notices of Violation were issued to the responsible parties for failing to continuously operate the remediation system and/or conduct quarterly groundwater monitoring and reporting.
7. Water Board staff collected water samples from residences at 883 and 903 Eloise Avenue on May 24, 2007. The residences are located approximately 500 and 600 feet, respectively, to the north of the Facility and have been adversely impacted by hydrocarbons in the past. The laboratory report showed that the following petroleum constituents were detected in the water sample collected at 883 Eloise Avenue:

Benzene	3.2 micrograms per liter ($\mu\text{g/L}$)
Toluene	3.2 $\mu\text{g/L}$
1,2,4-Trimethylbenzene	0.74 $\mu\text{g/L}$
1,3,5-Trimethylbenzene	0.60 $\mu\text{g/L}$

8. The concentration of benzene detected in the domestic well at 883 Eloise Avenue exceeds the state primary drinking water standard of 1 $\mu\text{g/L}$. The property owner of the well was informed of these results in a letter dated June 28, 2007. No hydrocarbons were detected in the water sample taken from 903 Eloise Avenue.
9. On August 13, 2007, the Water Board issued an order to Sarbjit S. Kang to investigate a potential discharge of gasoline to groundwater at the Facility. The order stated that hydrocarbons detected in the domestic well referenced in Finding No. 7 were consistent with a petroleum release occurring after MTBE was phased out of gasoline in California in 2003. The order directed Mr. Kang to collect groundwater samples from all on-site monitoring wells. A technical report containing laboratory results of the water samples was due within 21 days of the date of the order, or by September 3, 2007.
10. On September 27, 2007, the Water Board received a document prepared by CalClean, on behalf of Mr. Kang, containing well sampling results. The document shows that water samples collected from two of the five monitoring wells at the Facility contain high concentrations of petroleum hydrocarbons. Besides benzene, the hydrocarbons included trimethylbenzene, toluene, ethylbenzene, xylenes, and total petroleum hydrocarbons as gasoline. The highest levels of hydrocarbons were detected in a water sample from monitoring well MW-1, taken at 17 feet below ground surface:

Benzene	1,070 $\mu\text{g/L}$
Toluene	12,600 $\mu\text{g/L}$
1,2,4-Trimethylbenzene	3,030 $\mu\text{g/L}$

1,3,5-Trimethylbenzene	751 µg/L
Ethylbenzene	2990 µg/L
Xylenes	15,400 µg/L
Total Petroleum hydrocarbons-gasoline	32,200 µg/L

11. On December 14, 2007, the Water Board Executive Officer issued CAO No. R6T-2007-0029 to Sarbjit S. Kang and Kang Property, Inc. (Attachment B). The Order found that, based on water sample results listed in Findings No. 7 and 10, a new unauthorized release of petroleum hydrocarbons had occurred at the Facility, as indicated by the increase in concentration of volatile organic compounds by two or more orders of magnitude compared to water samples from 2006. The Order noted that lack of MTBE in the water samples suggested that the release occurred after the 2003 phase-out of MTBE in gasoline. The Order also noted that the presence of trimethylbenzene, a highly volatile hydrocarbon that attenuates quickly in the environment, implies the release was relatively recent, given that past monitoring reports to 2001 show that trimethylbenzene was not detected in monitoring wells at the Facility until March 2006.

12. CAO No. R6T-2007-0029 required the Dischargers to take the following cleanup actions: (1) provide alternate water supply to the affected domestic well owner; (2) identify and stop the source of the release, (3) conduct groundwater monitoring and submit technical reports, (4) conduct interim remediation to contain plume migration, (5) investigate the extent of the discharge, and (6) propose clean up of contamination in soil and groundwater. Specifically, the CAO provided, in relevant part:
 - “4. Provide Alternate Water Supply for Affected Domestic Wells
 - 4.1. **By December 19, 2007**, the Dischargers must provide an alternate supply of clean water to the occupants at 883 Eloise Avenue in South Lake Tahoe. The Dischargers must notify the Water Board within one working day of providing the alternate water supply and state how it was achieved.
 - 4.2. **By December 28, 2007**, the Dischargers must submit a technical report to the Water Board describing how it intends to comply with section 4.1 of this Order to provide an alternate supply of clean water to the occupants at 883 Eloise Avenue in South Lake Tahoe.

 5. Release Investigation.
 - 5.1. **By December 19, 2007**, submit a letter to the Water Board describing means to investigate the source or cause of petroleum release at the Facility.

- 5.2. **By December 21, 2007**, implement the release investigation. Notify the Water Board within one working day of implementing the investigation.
- 5.3. **By December 24, 2007**, abate any and all releases from the facility.
- 5.4. **By December 27, 2007**, submit a technical report to the Water Board describing the release investigation conducted at the Facility.

6. Groundwater Monitoring and Reporting

Groundwater monitoring and reporting required in this Order supersedes that required in CAO No. 6-98-78A1.

- 6.1. **Beginning December 30, 2007 and every three months thereafter**, conduct groundwater sampling at all on-site and off-site monitoring and extraction well locations associated with the Facility: MW-1 to 13, EW-1 to 5. Also collect water samples from all drinking water wells within 1,000 feet of the Facility, subject to permission by the property owners: Lukins No. 3 Well, 883 Eloise Avenue, and 903 Eloise Avenue.
 - 6.2. **Beginning February 20, 2008**, and every three months thereafter, submit a technical report to the Water Board describing groundwater monitoring results for the prior quarter.
- ## 7. Interim Remediation
- 7.1. **By December 31, 2007**, submit a workplan to the Water Board proposing interim remediation to contain the petroleum plume in groundwater from migration. At a minimum, this workplan must propose restarting the groundwater pump and treat system or another equally effective method for containing the petroleum plume in groundwater from migration.
 - 7.2. **By January 15, 2008**, implement the interim remediation workplan, as accepted by Water Board staff, for containing plume migration in groundwater. Notify the Water Board within one working day of implementing this action.
 - 7.3. **By February 28, 2008**, submit a technical report to the Water Board that describes interim remediation conducted at the site in accordance with the workplan accepted by Board staff. List the start date and time and initial volume or rate of the remediation method.

8. Contaminant Investigation

- 8.1. **By February 15, 2008**, submit a workplan to the Water Board that is designed to determine the lateral and vertical extent of petroleum hydrocarbons in soil and groundwater due to the release at the Facility.
 - 8.2. **By March 15, 2008**, implement the site investigation workplan, as accepted by Water Board staff, for determining the extent of contamination in soil and groundwater. Notify the Water Board within one working day of implementing the investigation.
 - 8.3. **By May 5, 2008**, submit a technical report to the Water Board that describes the soil and groundwater investigation conducted at the site in accordance with the workplan accepted by Board staff.
13. On January 30, 2008, the Water Board Executive Officer issued a Notice of Violation to the Dischargers for violation of CAO No. R6T-2007-0029 (Attachment C). The Notice states that the Dischargers have violated eight directives and have complied with only one directive in the CAO. The Notice informed the Dischargers that continued violation of the CAO would result in enforcement actions against them.
 14. On June 9, 2008, the Water Board received the First Quarter 2008 Groundwater Monitoring Report. The Report states that groundwater sampling was conducted on March 5, 2008 at seven of the thirteen monitoring locations listed in CAO No. R6T-2007-0029. Six locations could not be sampled due to snowpiles. The Report states that no detectable levels of petroleum hydrocarbons were found in six monitoring well locations and the domestic well at 883 Eloise Avenue. The Report concludes there was no longer evidence of the prior unauthorized release at the site. No monitoring report was received for fourth quarter 2007.
 15. As of November 10, 2008, the Dischargers have violated 13 of 16 CAO directives, as discussed in further detail below:

Directive No. 4.1. – Dischargers did not provide alternate supply of clean water to the occupants at 883 Eloise Avenue until June 9, 2008, **173 days** past the deadline of December 19, 2007. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13350.

Directive No. 4.2 – Dischargers did not submit a technical report, as required, until June 9, 2008, **164 days** past the deadline of December 28, 2007. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13268.

Directive No. 5.1. – Dischargers failed to submit a letter proposing to investigate the release until August 15, 2008, **240 days** past the deadline of December 19,

2007. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13268.

Directive No. 5.2. – Dischargers failed to implement the release investigation, as required, until August 26, 2008, **249 days** past the deadline of December 21, 2007. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13268.

Directive No 5.3. – Dischargers failed to abate any and all releases from the Facility until the Enhanced Leak Detection test was completed on August 26, 2008, **246 days** past the deadline of December 24, 2007. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13350.

Directive No. 5.4. – Dischargers failed to submit a technical report to the Water Board describing the release investigation conducted at the Facility until September 11, 2008, **259 days** past the deadline of December 24, 2007. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13268.

Directive No. 6.1. – Dischargers failed to implement groundwater monitoring at the site until March 5, 2008, **66 days** past the deadline of December 30, 2007. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13268.

Directive No. 6.2. – Dischargers failed to submit the groundwater monitoring report required pursuant to Directive 6.2, until June 9, 2008, **109 days** past the deadline of February 20, 2008. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13268.

Directive No. 6.2. – Dischargers failed to submit the First Quarter 2008 monitoring report required pursuant to Directive 6.2 until June 9, 2008, **20 days** past the deadline of May 20, 2008. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13268.

Directive No. 7.2. – Dischargers failed to implement the interim remediation workplan, as required pursuant to Directive 7.2, until June 9, 2008, **146 days** past the deadline of January 15, 2008. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13268.

Directive No. 7.3. – Dischargers failed to submit a technical report describing interim remediation until June 9, 2008, **102 days** past the deadline of February 28, 2008. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13268.

Directive No. 8.1. – Dischargers failed to submit a workplan describing means to investigate the extent of petroleum contamination in soil and groundwater at the

Facility, until August 28, 2008, **195 days** past the deadline of February 15, 2008. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13268.

Directive No. 8.2. – Dischargers failed to implement a site investigation, as required pursuant to Directive 8.2, until October 6, 2008, **205 days** past the deadline of March 15, 2008. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13268.

Directive No. 8.3. – Dischargers failed to submit a technical report describing results of the site investigation until November 10, 2008, **189 days** past the deadline of May 5, 2008. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13268.

PROPOSED CIVIL LIABILITY

18. Civil Liability – California Water Code

Any person who violates any cleanup and abatement order shall be liable civilly, and remedies may be proposed. The Water Board may impose civil liability in an amount up to that specified by the Water Code. Section 13350, subdivision (e)(1) states, in part:

“(e) The state board or a regional board may impose civil liability administratively pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 either on a daily basis or on a per gallon basis, but not both.

(1) The civil liability on a daily basis may not exceed five thousand dollars (\$5,000) for each day the violation occurs.

(A) When there is a discharge and a cleanup and abatement order is issued...the civil liability shall not be less than five hundred dollars (\$500) for each day in which the discharge occurs and for each day the cleanup and abatement order is violated.”

Any person failing or refusing to furnish technical or monitoring program reports as required of section 13267, is guilty of a misdemeanor and may be liable civilly in accordance with section 13268. Section 13268, subdivision (b)(1) states:

“(b)(1) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (a) in an amount which shall not exceed one thousand dollars (\$1,000) for each day in which the violation occurs.”

- a. The Dischargers violated two requirements under directive No. 4 in CAO No. R6T-2007-0029.

05-0038

- i. The maximum amount of civil liability for violation of directive No. 4.1 of the CAO under Water Code section 13350, subdivision (e)(1) is \$865,000 for 173 days of violations. This maximum administrative civil liability is based upon:

$$(173 \text{ days of violations of directive No. 4.1}) \times (\$5,000/\text{day of violation}) =$$

\$865,000

- ii. The maximum amount of civil liability for violation of directive No. 4.2 of the CAO under Water Code section 13268, subdivision (b)(1) is \$164,000 for 164 days of violations. This maximum administrative liability is based upon:

$$(164 \text{ days of violations of directive No. 4.2}) \times (\$1,000/\text{day of violation}) =$$

\$164,000

- b. The Dischargers violated four requirements under directive No. 5 in CAO No. R6T-2007-0029.

- i. The maximum amount of civil liability for violation of directive No. 5.1 of the CAO under Water Code section 13268, subdivision (b)(1) is \$240,000 for 240 days of violations. This maximum administrative liability is based upon:

$$(240 \text{ days of violations of directive No. 5.1}) \times (\$1,000/\text{day of violation}) =$$

\$240,000

- ii. The maximum amount of civil liability for violation of directive No. 5.2 of the CAO under Water Code section 13268, subdivision (b)(1) is \$249,000 for 249 days of violations. This maximum administrative civil liability is based upon:

$$(249 \text{ days of violations of directive No. 5.2}) \times (\$1,000/\text{day of violation}) =$$

\$249,000

- iii. The maximum amount of civil liability for violation of directive No. 5.3 of the CAO under Water Code section 13350, subdivision (e)(1) is \$1,230,000 for 246 days of violations. This maximum administrative civil liability is based upon:

$$(246 \text{ days of violations of directive No. 5.3}) \times (\$5,000/\text{day of violation}) =$$

\$1,230,000

- iv. The maximum amount of civil liability for violation of directive No. 5.4 of the CAO under Water Code section 13268, subdivision (b)(1) is \$259,000

for 259 days of violations. This maximum administrative liability is based upon:

$$(259 \text{ days of violations of directive No. 5.4}) \times (\$1,000/\text{day of violation}) = \mathbf{\$259,000}$$

c. The Dischargers violated two requirements on three occasions under directive No. 6 in CAO No. R6T-2007-0029.

i. The maximum amount of civil liability for violation of directive No. 6.1 of the CAO under Water Code section 13268, subdivision (b)(1) is \$66,000 for 66 days of violations. This maximum administrative civil liability is based upon:

$$(66 \text{ days of violations of directive No. 6.1}) \times (\$1,000/\text{day of violation}) = \mathbf{\$66,000}$$

ii. The maximum amount of civil liability for the first violation of directive No. 6.2 of the CAO under Water Code section 13268, subdivision (b)(1) is \$109,000 for 109 days of violations. This maximum administrative liability is based upon:

$$(109 \text{ days of violations of directive No. 6.2}) \times (\$1,000/\text{day of violation}) = \mathbf{\$109,000}$$

iii. The maximum amount of civil liability for the second violation of directive No. 6.2 of the CAO under Water Code section 13268, subdivision (b)(1) is \$20,000 for 20 days of violations. This maximum administrative liability is based upon:

$$(20 \text{ days of violations of directive No. 6.2}) \times (\$1,000/\text{day of violation}) = \mathbf{\$20,000}$$

d. The Dischargers violated two requirements under directive No. 7 in CAO No. R6T-2007-0029.

i. The maximum amount of civil liability for violations of directive No. 7.2 of the CAO under Water Code section 13268, subdivision (b)(1) is \$1246,000 for 146 days of violations. This maximum administrative civil liability is based upon:

$$(146 \text{ days of violations of directive No. 7.2}) \times (\$1,000/\text{day of violation}) = \mathbf{\$146,000}$$

ii. The maximum amount of civil liability for violations of directive No. 7.3 of the CAO under Water Code section 13268, subdivision (b)(1) is \$102,000

for 102 days of violations. This maximum administrative liability is based upon:

$$(102 \text{ days of violations of directive No. 7.3}) \times (\$1,000/\text{day of violation}) = \mathbf{\$102,000}$$

e. The Dischargers violated three requirements under directive No. 8 in CAO No. R6T-2007-0029.

i. The maximum amount of civil liability for violations of directive No. 8.1 of the CAO under Water Code section 13268, subdivision (b)(1) is \$195,000 for 195 days of violations. This maximum administrative liability is based upon:

$$(195 \text{ days of violations of directive No. 8.1}) \times (\$1,000/\text{day of violation}) = \mathbf{\$195,000}$$

ii. The maximum amount of civil liability for violations of directive No. 8.2 of the CAO under Water Code section 13268, subdivision (b)(1) is \$205,000 for 205 days of violations. This maximum administrative civil liability is based upon:

$$(205 \text{ days of violations of directive No. 8.2}) \times (\$1,000/\text{day of violation}) = \mathbf{\$205,000}$$

iii. The maximum amount of civil liability for violations of directive No. 8.3 of the CAO under Water Code section 13268, subdivision (b)(1) is \$189,000 for 189 days of violations. This maximum administrative liability is based upon:

$$(189 \text{ days of violations of directive No. 8.3}) \times (\$1,000/\text{day of violation}) = \mathbf{\$189,000}$$

The cumulative maximum administrative civil liability for violations of Order Nos. 4 – 8 of CAO No. R6T-2007-0029 is **\$4,039,000**.

19. Factors Affecting the Amount of Civil Liability

Water Code section 13327 requires the Water Board to consider enumerated factors when it determines the amount of civil liability assessed pursuant to Water Code sections 13268 and 13350. The Assistant Executive Officer of the Water Board considered those factors in recommending the amount of the administrative civil liability:

a. The nature, circumstances, extent, and gravity of the violations;

Violating a CAO, classified as a "formal" enforcement action by the Water Quality Enforcement Policy, is a serious offense. Violating directive No. 4 of CAO No. R6T-2007-0029 prevented the occupants of 883 Eloise Avenue from using and enjoying water from their domestic well. Violating directive No. 5 of the CAO prevented Water Board staff from finding out the source or cause of the petroleum release adversely affecting water quality, as referenced in Allegation No. 10. The Dischargers' violation of directive No. 6 prevented knowledge of the fate and migration of petroleum hydrocarbons detected beneath the Facility for nine months following submittal of the September 27, 2007 groundwater report. Violation of directive No. 7 prevented abatement and containment of hydrocarbons in groundwater beneath the Facility and sooner enjoyment of beneficial uses located in the downgradient flow direction. Finally, the Dischargers' violation of directive No. 8 prevents Water Board staff from knowing if petroleum products that could affect water quality in the future remain in the vadose zone at the Facility. As a result of failing to comply with these five directives, staff has needed to conduct verification well sampling at the Facility and at 883 Eloise Avenue, which diverts resources away from other Water Board work.

b. Whether discharge is susceptible to cleanup or abatement;

The discharge of petroleum products to groundwater is susceptible to abatement. For a past release at the Facility, the operator arranged for a carbon canister to be plumbed to the domestic well at 883 Eloise Avenue to remove petroleum hydrocarbons from the well water. A pump and treat system exists at the Facility from prior contamination and could have been re-started to contain plume migration from threatening other beneficial uses besides the affected domestic well at 883 Eloise Avenue. In addition, the Dischargers proposed implementing interim remediation by use of portable high vacuum dual-phase extraction equipment. This proposal was conditionally accepted by Water Board staff on January 8, 2008. As of June 9, 2008, when the First Quarter 2008 Monitoring Report was received, the Dischargers had not taken corrective action to abate or contain petroleum hydrocarbons from migration in groundwater.

c. The degree of toxicity of the discharge;

Groundwater at the site contained gasoline-range petroleum hydrocarbons and known toxic volatile organic carbons, including benzene, toluene, ethylbenzene, xylenes, and trimethylbenzenes. Concentrations of these petroleum constituents in groundwater exceed drinking water standards and public health goals. Levels of benzene in groundwater at the Facility and the domestic well at 883 Eloise Avenue exceed the one-in-a-million risk level for cancer. Since no corrective action was taken by the Dischargers, the fate and migration of the petroleum constituents in groundwater is unknown.

d. Ability to pay;

In addition to the Facility, Kang Property, Incorporated currently owns property zoned for use as service stations at:

- 1140 Emerald Bay Road, South Lake Tahoe, CA (APN 023-181-191 & APN-032-141-3510)
- 7920 Brentwood Boulevard, Brentwood, CA (APN 016-150-025-1)
- 425 Moraga Road, Moraga, CA (APN 256-070-001-1)
- 4480 Chiles Road, Davis, CA (APN 069-070-10-1)
- 4949 County Road 89, Yolo County, CA (APN 052-020-04-1)
- 4300 Watt Avenue, Sacramento, CA (APN 240-0232-058-0)

Kang Property, Incorporated also owns the following property:

- 1122 Emerald Bay Road, South Lake Tahoe, CA (APN 032-141-041 [vacant lot])

Given the assets described above, it appears the Dischargers are able to pay the liability.

e. The effect on the Dischargers' ability to continue its business;

Water Board staff is not aware of any reason that the Dischargers' ability to continue their business would be affected by the proposed liability. The Dischargers own and operate multiple gas stations in California.

f. Any voluntary cleanup efforts undertaken by the violator;

To date, the Dischargers have only implemented corrective actions at the site when ordered to by the Water Board in CAO No. R6T-2007-0029 and Water Code section 13267 orders.

g. Prior history of violations;

Sarbjit S. Kang has a history of violations in complying with directives for clean up at the Facility and another facility. On October 13, 1999, the Water Board issued Administrative Civil Liability Order No. 6-99-46 to Mr. Kang and other parties in the amount of \$95,000 for non-compliance of Amended CAO 6-98-78A1. \$31,250 of this liability was never paid and is still owed. On the same date, the Water Board issued Administrative Civil Liability Order No. 6-99-47 to Mr. Kang and other parties in the amount of \$59,000 for non-compliance of other directives in Amended CAO 6-98-78A1. \$25,850 of this liability was never paid and is still owed. Civil liabilities in both Orders were assessed at the rate of \$1,000 per day of violation. In addition, on October 13, 1999, the Water Board

05-0048

issued Administrative Civil Liability Order No. 6-99-50 to Mr. Kang and another party in the amount of \$112,500 for non-compliance of a cleanup and abatement order at another gas station in which Mr. Kang was the operator. The civil liability was assessed in Order No. 6-99-50 at the rate of \$500 per day of violation.

h. Degree of culpability;

Sarbjit S. Kang and Kang Property, Inc. are identified as the "Dischargers" by CAO No. R6T-2007-0029 and, thus, are ultimately responsible for compliance with CAO No. R6T-2007-0029, and applicable state laws and regulations. Despite issuance of a Notice of Violation on January 30, 2008 and repeated contacts between Water Board staff and the Dischargers' consultant, during which violations were discussed, the Dischargers failed to comply with applicable requirements.

i. Economic savings resulting from the violation;

Water Board staff has calculated the Discharger's cost savings associated with violating the CAO. The nature of such cost savings would be "avoided costs" and "delayed costs." Avoided costs include those associated with quarterly monitoring and reporting, conducting interim remediation, and providing replacement drinking water for the residence at 883 Eloise Avenue. Estimated avoided costs are \$37,000. Delayed cost savings would be the potential interest earned on the delayed costs, which given the short violation period addressed by this Complaint would be small and substantially less than the proposed liability.

j. Other matters as justice may require.

Staff Costs

Staff from the State and Regional Boards have spent time responding to the incident and preparing the Administrative Civil Liability Complaint. Estimated staff costs for investigation and complaint preparation are **\$26,823**.

20. Amount of Civil Liability

The Assistant Executive Officer of the Water Board considered the above factors and proposes that administrative civil liability be imposed by the Water Board at a rate of \$500 per day for a total of 419 days of violation of Water Code section 13304 and at a rate of \$100 per day for a total of 1,944 days of violation of Water Code section 13267 for a total amount of **\$403,900**.

WAIVER OF HEARING

You may waive the right to a hearing. Waiver of your right to a hearing constitutes acceptance of the assessment of civil liability in the amount set forth within the

Complaint. If you wish to waive your right to a hearing, an authorized person must sign the Waiver of Hearing form prepared for this Complaint, and submit it to the address below.

Lahontan Regional Water Quality Control Board
Attn: Robert S. Dodds, Assistant Executive Officer
2501 Lake Tahoe Boulevard
South Lake Tahoe, CA 96150

Please note that any settlement will not be effective until reasonable opportunity for public participation has been provided pursuant to title 40, Code of Federal Regulations, section 123.27(d)(2)(iii) and the State Water Board's 2002 Enforcement Policy. The Water Board will notify interested persons of any proposed settlement for and will solicit comments on the settlement for a period of thirty (30) days. Any settlement will not become final until after the public comment period.

Payment of the liability will be due within 30 days of the settlement becoming final. Payment must be made with a cashier's check or money order made payable as follows:

\$209,500 to the State Water Resources Control Board, Waste Discharge Permit Fund.

\$194,400 to the State Water Resources Control Board, Cleanup and Abatement Account.

Send your remittance to:

Lahontan Regional Water Quality Control Board
Attn: Robert S. Dodds, Assistant Executive Officer
2501 Lake Tahoe Boulevard
South Lake Tahoe, CA 96150

Ordered by: 
Robert S. Dodds
Assistant Executive Officer

Dated: December 19, 2008

- Attachments:
- A. Site Vicinity Map
 - B. Cleanup and Abatement Order No. R6T-2007-0029
 - C. January 30, 2008 Notice of Violation

ATTACHMENT A

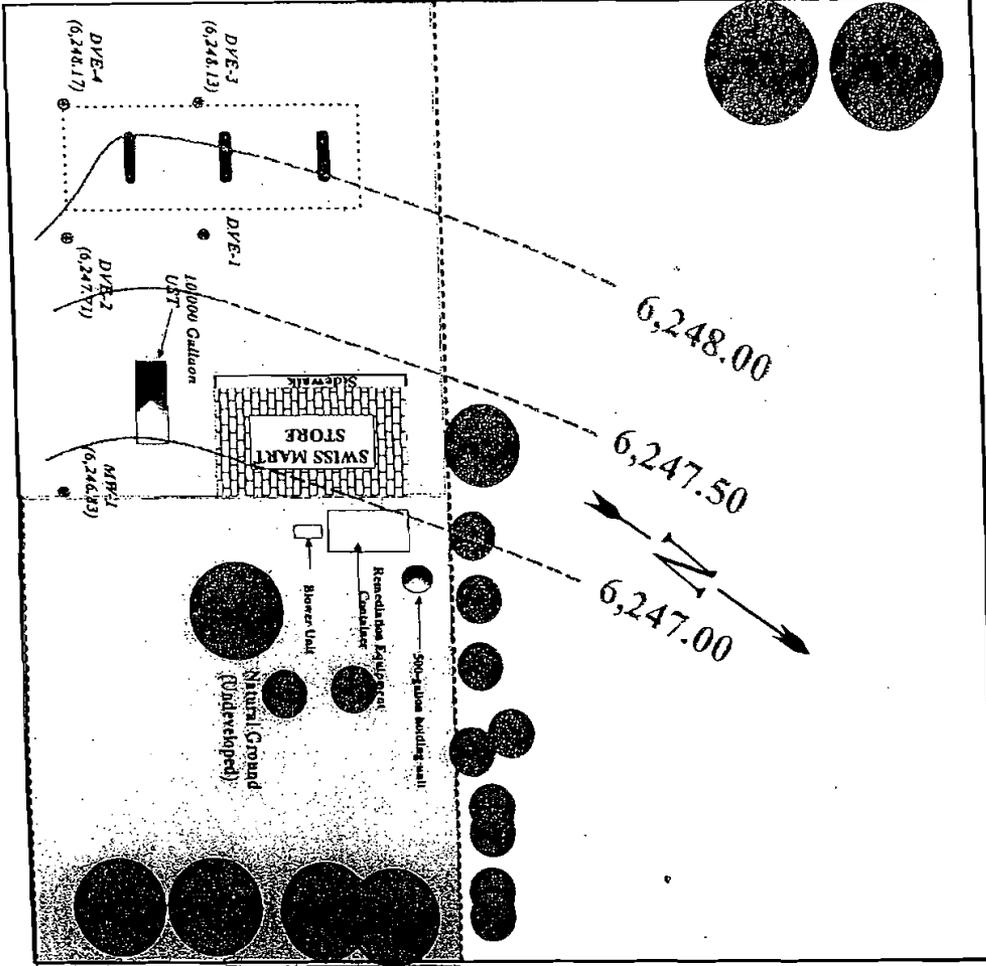
05-0046

EMERALD BAY DRIVE

FIFTH STREET

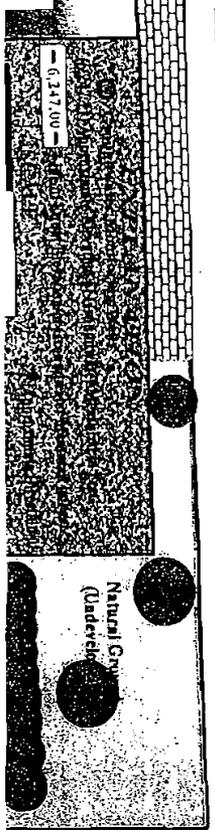
JAMES AVENUE

AVENUE



Approximate Direction of
Groundwater Flow 03/05/08

LARDO & ASSOCIATES, INC.
Environmental and Geological Services
ROUNDWATER CONTOUR MAP: SWISS MART SITE
DATE: 03/05/08



ATTACHMENT B

05-0048

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION

CLEANUP AND ABATEMENT ORDER NO. R6T-2007-0029

REQUIRING SARBJIT SINGH KANG
AND KANG PROPERTY, INCORPORATED
TO CLEAN UP AND ABATE THE EFFECTS OF
THE DISCHARGE OF PETROLEUM PRODUCTS
TO THE GROUNDWATERS OF THE LAKE TAHOE HYDROLOGIC UNIT
AT THE SWISS MART GAS STATION LOCATED AT
913 EMERALD BAY ROAD IN SOUTH LAKE TAHOE

El Dorado County

The California Regional Water Quality Control Board, Lahontan Region (Water Board), finds:

1. This is a new Cleanup and Abatement Order issued to Sarbjit Singh Kang and Kang Properties, Incorporated, for new discharges of petroleum products at the Swiss Mart Gas Station having a prior history of contamination and enforcement actions.
2. The Swiss Mart Gas Station (hereinafter referred to as the Facility) is located at 913 Emerald Bay Road, South Lake Tahoe, El Dorado County (Assessor's Parcel Number 023-181-191).
2. On November 10, 1998, the Water Board issued Cleanup and Abatement Order No. 6-98-78 (CAO). The Order required Mary Ann Ferguson, Sarbjit Singh Kang, Azad Amiri and Amiri Oil Company to clean up and abate the effects of petroleum products discharged from underground storage tanks and associated piping to the groundwaters of the Lake Tahoe Hydrologic Unit at the Facility. Petroleum products are any oil-based products which can be obtained by distillation and are normally used outside the refining industry. The responsible parties complied with Orders listed in CAO 6-98-78.
3. On March 23, 1999, the Water Board issued Amended CAO 6-98-78A1 requiring the same responsible parties listed in Finding No. 2 to conduct further actions to clean up and abate the effects of petroleum hydrocarbons from the discharge identified in 1998. Specifically, the Amended CAO required implementation of remedial actions to abate MTBE (methyl tertiary butyl ether) contamination adversely affecting municipal and domestic drinking water wells and threatening other beneficial uses. The Amended CAO directed quarterly monitoring and reporting until remediation has achieved background levels of groundwater quality.

05-0049

date of the order, or by September 3, 2007.

9. On September 27, 2007, the Water Board received a document prepared by CalClean, on behalf of Mr. Kang, containing well sampling results. The document shows that water samples collected from two of the five monitoring wells at the Facility contain high concentrations of petroleum hydrocarbons. Besides benzene, the hydrocarbons included trimethylbenzene, toluene, ethylbenzene, xylenes, and total petroleum hydrocarbons as gasoline. The highest levels of hydrocarbons were detected in a water sample from monitoring well MW-1, taken at 17 feet below ground surface:

Benzene	1,070 µg/L
Toluene	12,600 µg/L
1,2,4-Trimethylbenzene	3,030 µg/L
1,3,5-Trimethylbenzene	751 µg/L
Ethylbenzene	2990 µg/L
Xylenes	15,400 µg/L
Total Petroleum hydrocarbons-gasoline	32,200 µg/L

The document was incomplete in that it did not contain items listed in the Water Board's August 13, 2007 order, including a description of sampling techniques, a table of laboratory analytical results for all wells sampled, and the signature or stamp of a California licensed profession engineer or geologist.

10. Based on water sample results listed in Findings No. 7 and 9, a new unauthorized release of petroleum hydrocarbons is indicated at the Facility. The indication of a new release is supported by the increase in concentration of volatile organic compounds by two or more orders of magnitude compared to water samples from 2006. The lack of MTBE in the water samples suggests that the release occurred after the 2003 phase-out of MTBE in gasoline. The presence of trimethylbenzene, a highly volatile hydrocarbon that attenuates quickly in the environment, implies the release was relatively recent. A review of past monitoring reports to 2001 shows that trimethylbenzene was not detected in monitoring wells at the Facility until starting in March 2006.
11. According to El Dorado County property records, Kang Property, Incorporated became the owner of the Facility on August 6, 2003. The agent for service of process is Mr. Sarbjit S. Kang. As the owner of the facility, Kang Property, Incorporated either knows or should have known of the discharge of waste and has the ability to control it. Consequently, Kang Property, Inc. is properly named as a responsible party subject to this order.
12. According to the El Dorado County Department of Environmental Management, Mr. Sarbjit Singh Kang is listed as the operator of the underground storage tanks on the permit issued for the Facility. As the current operator of the underground storage tanks on the permit issued for the Facility, Mr. Sarbjit

Toluene	42 µg/L (TOT)
1,3,5-Trimethylbenzene	15 µg/L (TOT)
Ethylbenzene	29 µg/L (TOT)
Xylenes	17 µg/L (TOT)
Total Petroleum Hydrocarbons (Gasoline)	50 µg/L (TOT)

State Action Levels are used to interpret narrative water quality objectives that prohibit toxicity to humans that beneficially use the water resource. The following Action Level (AL) is adopted as secondary water quality goals by the United States Environmental Protection Agency or the California Department of Public Health for drinking water. Petroleum concentrations above this level will violate the narrative objective in the Basin Plan:

1,2,4-Trimethylbenzene 330 µg/L (AL)

16. The concentration of 3.2 µg/L benzene detected in a water sample collected from the domestic well at 883 Eloise Avenue (Finding No. 7), exceeds the water quality objective for groundwater specified in the Basin Plan, as listed in Finding No. 15. In addition, concentrations of benzene, toluene, trimethylbenzene, ethylbenzene, xylenes, and total petroleum hydrocarbons as gasoline detected in groundwater samples taken from monitoring wells on the Facility and referenced in Finding No. 9 exceed water quality objectives for groundwater specified in the Basin Plan. These concentrations adversely affect the groundwater for its beneficial uses, as listed in Finding No. 13.
17. The levels of waste in groundwater at the Facility constitute a pollution as defined in Water Code section 13050, subdivision (l); Pollution means an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects either of the following: (a) the waters for beneficial uses; or (b) facilities which serve these beneficial uses.]
18. The discharge of petroleum products to the groundwaters of the Lake Tahoe Hydrologic Unit as described in Finding No. 9 violates a prohibition contained in the Basin Plan. Specifically, the discharge violates and threatens to violate the following discharge prohibition:

"The discharge of waste... as defined in Section 13050(d) of the California Water Code which would violate the water quality objectives of this plan, or otherwise adversely affect the beneficial uses of water designated by this plan, is prohibited."
19. This enforcement action is being taken by this regulatory agency to enforce the provisions of the California Water Code and as such is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000 et. seq.) in accordance with California Code of Regulations, title 14, section 15321.

5. Release Investigation.

- 5.1. **By December 19, 2007**, submit a letter to the Water Board describing means to investigate the source or cause of petroleum release at the Facility. Enclose a map showing all potential source areas, property boundaries, and building footprints at the Facility. State the licensed professional who will be conducting the work.
- 5.2. **By December 21, 2007**, implement the release investigation. Notify the Water Board within one working day of implementing the investigation.
- 5.3. **By December 24, 2007**, abate any and all releases from the facility.
- 5.4. **By December 27, 2007**, submit a technical report to the Water Board describing the release investigation conducted at the Facility. At a minimum, the report must:
 - 5.4.1. Provide a narrative description of work performed and information obtained.
 - 5.4.2. Tabulate all analytical data obtained.
 - 5.4.3. Include site maps showing the location of all sampling points.
 - 5.4.4. Provide an interpretation of the results and a conclusion about the source or cause of the petroleum release.
 - 5.4.5. Provide a discussion about the means and method used to stop the release including, but not limited to:
 - 5.4.5.1. Information about what was fixed, how it was fixed, and who fixed it (provide contractor license number).
 - 5.4.5.2. A figure of the site and identification of the item(s) repaired.
 - 5.4.5.3. Information that verifies all repairs were completed with El Dorado County concurrence.

6. Groundwater Monitoring and Reporting

Groundwater monitoring and reporting required in this Order supercedes that required in Cleanup and Abatement Order No. 6-98-78A1.

- 6.1. **Beginning December 30, 2007 and every three months thereafter**, conduct groundwater sampling at all on-site and off-site monitoring and extraction well locations associated with the Facility: MW-1 to 13, EW-1 to 5. Also collect water samples from all drinking water wells within 1,000 feet of the Facility, subject to permission by the property owners: Lukins No. 3 Well, 883 Eloise Avenue, and 903 Eloise Avenue.
- 6.2. **Beginning February 20, 2008**, and every three months thereafter, submit a technical report to the Water Board describing groundwater monitoring results for the prior quarter. The report must contain the following information:

8. Contaminant Investigation

- 8.1. **By February 15, 2008**, submit a workplan to the Water Board that is designed to determine the lateral and vertical extent of petroleum hydrocarbons in soil and groundwater due to the release at the Facility. The workplan must propose collecting multi-depth samples or propose another suitable method to define the lateral and vertical extent of contamination out to background (non-detect) concentrations. The investigation must be designed in a manner that does not promote the vertical migration of contaminants to lower portions of the aquifer. The Dischargers must propose to sample all potentially affected municipal and domestic, active and inactive wells within 2,000 feet of the Facility, subject to permission from well owner. All maps must be drawn to scale, color coded, show all potential petroleum release source areas, and show proposed sampling locations.
- 8.2. **By March 15, 2008**, implement the site investigation workplan, as accepted by Water Board staff, for determining the extent of contamination in soil and groundwater. Notify the Water Board within one working day of implementing the investigation.
- 8.3. **By May 5, 2008**, submit a technical report to the Water Board that describes the soil and groundwater investigation conducted at the site in accordance with the workplan accepted by Board staff. All figures must be drawn to scale and in color. At a minimum, the report must:
- 8.3.1. Provide a narrative description of work performed and information obtained.
 - 8.3.2. Include boring logs, monitoring well designs (if constructed), and analytical data.
 - 8.3.3. Include site maps showing the location of all borings and sampling points.
 - 8.3.4. Include an isoconcentration map with boundary lines of benzene in soil and groundwater out to 10 µg/kg and 1 µg/L, respectively, in all directions. Also include an isoconcentration map with boundary lines of TPH-gasoline in soil and groundwater out to 100 µg/kg and 50 µg/L, respectively, in all directions. Question marks shall indicate areas where boundaries are unknown.
 - 8.3.5. Describe the geology beneath the Facility and at off-site sampling locations.

ATTACHMENT C

05-0054



California Regional Water Quality Control Board
Labontan Region



Linda S. Adams
Secretary for
Environmental Protection

2501 Lake Tahoe Boulevard, South Lake Tahoe, California 96150
(530) 542-5400 • Fax (530) 544-2271
www.waterboards.ca.gov/labontan

Arnold Schwarzenegger
Governor

JAN 30 2008

Sarbjit Singh Kang
Swiss Mart Gas Station
913 Emerald Bay Road
South Lake Tahoe, CA 96150

Certified Mail: 7006 2760 0003 9496 9909

Kang Property, Incorporated
Attn: Sarbjit S. Kang
61 Chilpancingo Parkway #201
Pleasant Hill, CA 94523

Certified Mail: 7006 2760 0003 9496 9763

NOTICE OF VIOLATION OF CLEANUP AND ABATEMENT ORDER NO. R6T-2007-0029, SWISS MART GAS STATION, 913 EMERALD BAY ROAD, SOUTH LAKE TAHOE, EL DORADO COUNTY

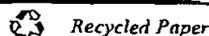
This notice of violation informs you that you are in violation of directives in Cleanup and Abatement Order (CAO) No. R6T-2007-0029 for the Swiss Mart Gas Station in South Lake Tahoe. The CAO, issued on December 14, 2007, requires the above-listed parties to conduct corrective actions and reporting for contamination from petroleum releases. To date, you have violated eight directives and have complied with only one directive in CAO No. R6T-2007-0029.

Violations

Sarbjit S. Kang and Kang Property, Incorporated have failed to comply with the following directives in CAO R6T-2007-0029:

1. Provide Alternate Water Supply for Affected Domestic Wells
 - a) By December 19, 2007, you must submit a letter proposing to provide an alternate supply of clean water to the occupants at 883 Eloise Avenue in South Lake Tahoe.
 - b) By December 28, 2007, you must provide an alternate supply of clean water to the occupants of the affected domestic well at 883 Eloise Avenue in South Lake Tahoe.
2. Release Investigation
 - a) By December 19, 2007, submit a letter to the Water Board describing means to investigate the source or cause of petroleum release at the Facility.
 - b) By December 21, 2007, implement the release investigation in coordination with the El Dorado County Environmental Management Department.

California Environmental Protection Agency



05-0055

In addition, be aware that the Water Board may administratively impose civil liability for violations of CAO R6T-2007-0029. According to Water Code section 13350, the Water Board may impose a civil liability up to \$5,000 per day of non-compliance. You are urged to immediately come into compliance with requirements in CAO R6T-2007-0029 to reduce your exposure to future civil liability.

Finally, by copy of this notice of violation, I am notifying State Water Resources Control Board (State Board) staff with the Underground Storage Tank Cleanup Fund of your non-compliance status with CAO R6T-2007-0029. Your status will likely adversely affect State Board staff's ability to offer you reimbursement and a Letter of Commitment from the Cleanup Fund unless you take immediate steps to comply with CAO R6T-2007-0029.

I hope to hear from you or your agent in the near future. You may contact Lisa Dernbach at (530) 542-5424 if you have any questions or comments concerning this matter.



HAROLD J. SINGER
EXECUTIVE OFFICER

cc: El Dorado County, Dept. of Environmental Management, Virginia Huber
South Tahoe Public Utility District, Richard Solbrig
Lukins Brothers Water Company, Danny Lukins
State Water Board, Office of Chief Counsel, David Coupe
State Water Board, Division of Financial Assistance, UST Cleanup Fund
City of South Lake Tahoe, David Jinkens
SAA Programs, Gabe Litvin
Michael Schneeweis
Tahoe Outdoor Living, Pat Baginski

LSD/didT:/Swiss Mart SLT, NOV 1-22-08 lsd.doc
[To be filed: UGT - El Dorado Co., 6T0297A]

05-0056

ENCLOSURE 2

05-0057

**WAIVER FORM
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

By signing this waiver, I affirm and acknowledge the following:

I am duly authorized to represent Kang Property, Inc. and Mr. Sarbjit Kang (hereinafter "Dischargers") in connection with Administrative Civil Liability Complaint No. R6-2008-0021 (hereinafter the "Complaint"). I am informed that California Water Code section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served [with the complaint]. The person who has been issued a complaint may waive the right to a hearing."

(OPTION 1: Check here if the Dischargers waive the hearing requirement and will pay the liability.)

- a. I hereby waive any right the Dischargers may have to a hearing before the Regional Water Board.
- b. I certify that the Dischargers will remit payment for the civil liability imposed in the total amount of **four hundred three thousand nine hundred dollars (\$403,900)** by checks that reference "ACL Complaint No. R6-2008-0021" made payable in the amount of **\$209,500** to the "State Water Resources Waste Discharge Permit Fund" and in the amount of **\$194,400** to the "State Water Pollution Cleanup and Abatement Account." Payment must be received by the Regional Water Board by **February 9, 2009** or this matter will be placed on the Regional Water Board's agenda for a hearing as initially proposed in the Complaint.
- c. I understand the payment of the above amount constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after the 30-day public notice and comment period mandated by Federal regulations (40 CFR 123.27) expires. Should the Regional Water Board receive significant new information or comments from any source (excluding the Water Board's Prosecution Team) during this comment period, the Regional Water Board's Assistant Executive Officer may withdraw the complaint, return payment, and issue a new complaint. I understand that this proposed settlement is subject to approval by the Regional Water Board, and that the Regional Water Board may consider this proposed settlement in a public meeting or hearing. I also understand that approval of the settlement will result in the Dischargers having waived the right to contest the allegations in the Complaint and the imposition of civil liability.
- d. I understand that payment of the above amount is not a substitute for compliance with applicable laws, and that continuing violations of the type alleged in the Complaint may subject the Dischargers to further enforcement, including additional civil liability.

(OPTION 2: Check here if the Dischargers waive the 90-day hearing requirement in order to extend the hearing date and/or hearing deadlines.)

I hereby waive any right the Dischargers may have to a hearing before the Regional Water Board within 90 days after service of the complaint, but I intend to request a hearing in the future. By checking this box, the Dischargers request that the Regional Water Board delay the hearing and/or hearing deadlines so that the Dischargers may have additional time to prepare for the hearing. It remains within the discretion of the Regional Water Board to agree to delay the hearing.

(Print Name and Title)

(Signature)

(Date)

ENCLOSURE 3

05-0059

NOTICE OF WAIVER OF PUBLIC HEARING

**California Regional Water Quality Control Board, Lahontan Region
Issuance of Administrative Civil Liability (ACL) Order
Against
Kang Property Incorporated and Mr. Sarbjit Kang
Swiss Mart Gasoline Service Station
South Lake Tahoe, California**

On December 19, 2008 the California Regional Water Quality Control Board, Lahontan Region (Water Board) issued Complaint No. R6T-2008-0021 to Kang Property Inc. and Mr. Sarbjit Kang (Dischargers) in the amount of \$403,900 for alleged violations of Cleanup and Abatement Order No. R6T-2007-0029. The Dischargers have elected to waive their right to a public hearing in this matter. Waiver of the hearing constitutes admission of the validity of the allegation of violations in the Complaint and acceptance of the assessment of civil liability in the amount of \$403,900 as set forth in the Complaint. The Water Board will consider accepting the Discharger's waiver at its March 11-12, 2009 meeting.

Written comments regarding the allegations contained in Complaint No. R6T-2008-0021, and/or acceptance of the waiver, will be accepted through Monday February 6, 2009.

The Water Board's March 11-12, 2009 meeting will be held at a time and location as announced in the Water Board meeting agenda. An agenda for the meeting will be issued at least ten days before the meeting and will be posted on the Water Board's web page at <http://waterboards.ca.gov/lahontan/>. Oral comments for this item may be made during the meeting upon receipt of a request to speak slip. For more information regarding this matter, please call Ms. Lisa Dernbach at (530) 542-5424.

Robert S. Dodds
Assistant Executive Officer

[Swiss Mart Notice of Waiver-for publication.doc]

05-0060

ENCLOSURE 4

05-0061

Hearing Procedures

The hearing will be conducted in accordance with this hearing procedure. This proposed draft version of the hearing procedure has been prepared by the Prosecution Team, and is subject to revision and approval by the Regional Board's Advisory Team. A copy of the general procedures governing adjudicatory hearings before the Regional Board may be found at Title 23 of the California Code of Regulations, Section 648 et seq., and is available at <http://www.waterboards.ca.gov> or upon request. In accordance with Section 648, subdivision (d), any procedure not provided by this Hearing Procedure is deemed waived. Except as provided in Section 648 and herein, subdivision (b), Chapter 5 of the Administrative Procedures Act (commencing with Section 11500 of the Government Code) does not apply to this hearing.

THIS AND THE PROCEDURES AND DEADLINES HEREIN MAY BE AMENDED BY THE ADVISORY TEAM IN ITS DISCRETION. ANY OBJECTIONS TO THE HEARING PROCEDURE MUST BE RECEIVED BY THE REGIONAL BOARD'S ADVISORY TEAM NO LATER THAN JANUARY 5, 2009 OR THEY WILL BE WAIVED. FAILURE TO COMPLY WITH THE DEADLINES AND REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF DOCUMENTS AND/OR TESTIMONY.

Hearing Participants

Participants in this proceeding are designated as either "parties" or "interested persons." Designated parties to the hearing may present evidence and cross-examine witnesses and are subject to cross-examination. Interested persons may present non-evidentiary policy statements, but may not cross-examine witnesses and are not subject to cross-examination. Interested persons generally may not present evidence (e.g., photographs, eye-witness testimony, monitoring data). Both designated parties and interested persons may be asked to respond to clarifying questions from the Regional Board, staff or others, at the discretion of the Regional Board.

The following participants are hereby designated as parties in this proceeding:

- (1) Regional Board Prosecution Team
- (2) Kang Property, Inc. and Mr. Sarbjit Kang, referred to as the "Dischargers"

Requesting Designated Party Status

Persons who wish to participate in the hearing as a designated party must request party status by submitting a request in writing (with copies to the existing designated parties) no later than 5 p.m. on January 12, 2009 to Harold Singer, Regional Board Executive Officer, at the address provided below. The request shall include an explanation of the basis for status as a designated party (e.g., how the issues to be addressed in the hearing and the potential actions by the Regional Board affect the

person), the information required of designated parties as provided below, and a statement explaining why the party or parties designated above do not adequately represent the person's interest. Any opposition to the request must be submitted by 5 p.m. on January 23, 2009. The parties will be notified by 5 p.m. on February 6, 2009 in writing whether the request has been granted or denied.

Primary Contacts

Advisory Team:

Harold Singer, Executive Officer, California Regional Water Quality Control Board, Lahontan Region, 2501 Lake Tahoe Blvd. South Lake Tahoe, CA 96150, Tel. # (530) 542-5400, HSinger@waterboards.ca.gov.

David Coupe, Staff Counsel, State Water Resources Control Board, Office of Chief Counsel, 1001 I Street, Sacramento, CA 95814, Tel. # (916) 327-4439, DCoupe@Waterboards.ca.gov.

Prosecution Team:

Robert Dodds, Assistant Executive Officer, California Regional Water Quality Control Board, Lahontan Region, 2501 Lake Tahoe Blvd. South Lake Tahoe, CA 96150, Tel. # (530) 542-5410, RDodds@waterboards.ca.gov.

David Boyers, Senior Staff Counsel, State Water Resources Control Board, Office of Enforcement, 1001 I Street, Sacramento, CA 95814, Tel. # (916) 341-5276; DBoyers@waterboards.ca.gov.

Chuck Curtis, (Supervising Water Resources Control Engineer), California Regional Water Quality Control Board, Lahontan Region, 2501 Lake Tahoe Blvd. South Lake Tahoe, CA 96150, Tel. # (530) 542-5460, CCurtis@waterboards.ca.gov.

Lisa Dernbach, (Senior Engineering Geologist, Specialist), California Regional Water Quality Control Board, Lahontan Region, 2501 Lake Tahoe Blvd. South Lake Tahoe, CA 96150, Tel. # (530) 542-5424, LDernbach@waterboards.ca.gov.

Scott Ferguson, (Senior Water Resources Control Engineer), California Regional Water Quality Control Board, Lahontan Region, 2501 Lake Tahoe Blvd. South Lake Tahoe, CA 96150, Tel. # (530) 542-5432, SFerguson@waterboards.ca.gov.

Dischargers:

Kang Property, Inc.
c/o Mr. Sarbjit Kang
61 Chilpancino Parkway
Pleasant Hill, CA 94523

05-0064

Mr. Sarbjit Kang
Swiss Mart Gas Station
913 Emerald Bay Road
South Lake Tahoe, CA 96150

Separation of Functions

To help ensure the fairness and impartiality of this proceeding, the functions of those who will act in a prosecutorial role by presenting evidence for consideration by the Regional Board (Prosecution Team) have been separated from those who will provide advice to the Regional Board (Advisory Team). Members of the Advisory Team are: Harold Singer, Executive Officer and David Coupe, Staff Counsel. Members of the Prosecution Team are: Robert Dodds, Assistant Executive Officer, David Boyers, Senior Staff Counsel, Chuck Curtis, (Supervising Engineer), Lisa Dernbach, (Senior Engineering Geologist), and Scott Ferguson, (Senior Engineer). Any members of the Advisory Team who normally supervise any members of the Prosecution Team are not acting as their supervisors in this proceeding, and vice versa. Members of the Prosecution Team may have acted as advisors to the Regional Board in other, unrelated matters, but they are not advising the Regional Board in this proceeding. Members of the Prosecution Team have not had any ex parte communications with the members of the Regional Board or the Advisory Team regarding this proceeding.

Ex Parte Communications

The designated parties and interested persons are forbidden from engaging in ex parte communications regarding this matter with members of the Advisory Team or members of the Regional Board. An ex parte contact is any written or verbal communication pertaining to the investigation, preparation or prosecution of the ACL Complaint between a member of a designated party or interested person on the one hand, and a Regional Board member or an Advisory Team member on the other hand, unless the communication is copied to all other designated parties (if written) or made in a manner open to all other designated parties (if verbal). Communications regarding non-controversial procedural matters are not ex parte contacts and are not restricted. Communications among one or more designated parties and interested persons themselves are not ex parte contacts.

Hearing Time Limits

To ensure that all participants have an opportunity to participate in the hearing, the following time limits shall apply: each designated party shall have a combined 30 minutes to present evidence, cross-examine witnesses (if warranted), and provide a closing statement; and each interested person shall have 3 minutes to present a non-evidentiary policy statement. Participants with similar interests or comments are requested to make joint presentations, and participants are requested to avoid redundant comments. Participants who would like additional time must submit their request to the Advisory Team no later than ten days after all of the evidence has been submitted. Additional time may be provided at the discretion of the Advisory

05-0065

Team (prior to the hearing) or the Regional Board Chair (at the hearing) upon a showing that additional time is necessary.

Evidence, Exhibits and Policy Statements

The following information must be submitted in advance of the hearing:

1. All written evidence and exhibits that the Designated Party would like the Regional Board to consider. Evidence and exhibits already in the public files of the Regional Board may be submitted by reference as long as the exhibits and their location are clearly identified in accordance with Title 23, CCR, Section 648.3.
2. All legal and technical arguments or analysis.
3. The name of each witness, if any, whom the designated party intends to call at the hearing, the subject of each witness' proposed testimony, and the estimated time required by each witness to present direct testimony.
4. The qualifications of each expert witness, if any.

The Prosecution Team shall submit (15) hard copies and one electronic copy of the information to Harold Singer, Regional Board Executive Officer no later than 5 p.m. on February 6, 2009.

The remaining designated parties shall submit (15) hard copies and one electronic copy of the information to Harold Singer, Regional Board Executive Officer no later than 5 p.m. on February 20, 2009.

If the total amount of information submitted by any party is less than 15 pages, that party may submit the information by email, rather than in writing. In addition to the foregoing, each designated party shall send (1) one copy of the above information to each of the other designated parties by 5 p.m. on the deadline specified above.

Interested persons who would like to submit written non-evidentiary policy statements are encouraged to submit them to the Advisory Team as early as possible, but no later than 10 days prior to the hearing. Interested persons do not need to submit written comments in order to speak at the hearing. In accordance with Title 23, California Code of Regulations, Section 648.4, the Regional Board endeavors to avoid surprise testimony or evidence. Absent a showing of good cause and lack of prejudice to the parties, the Regional Board may exclude evidence and testimony that is not submitted in accordance with this hearing procedure. Excluded evidence and testimony will not be considered by the Regional Board and will not be included in the administrative record for this proceeding. Power Point and other visual presentations may be used at the hearing, but their content may not exceed the scope of other submitted written material. A copy of such material intended to be presented at the hearing must be submitted to the Advisory Team at or before the hearing for inclusion in the administrative record. Additionally, any witness who has submitted written testimony for the hearing shall appear at the hearing and affirm that the written testimony is true and correct, and shall be available for cross-examination.

Request for Pre-hearing Conference

A designated party may request that a pre-hearing conference be held before the hearing in accordance with Water Code Section 13228.15. A pre-hearing conference may address any of the matters described in subdivision (b) of Government Code Section 11511.5. Requests must contain a description of the issues proposed to be discussed during that conference, and must be submitted to the Advisory Team, with a copy to all other designated parties, as early as practicable.

Evidentiary Objections

Any designated party objecting to written evidence or exhibits submitted by another designated party must submit a written objection by 5 p.m. on February 27, 2009 to the Advisory Team with a copy to all other designated parties. The Advisory Team will notify the parties about further action to be taken on such objections and when that action will be taken.

Evidentiary Documents and File

The Complaint and related evidentiary documents are on file and may be inspected or copied at the Regional Board office at 2501 Lake Tahoe Boulevard, South Lake Tahoe. This file shall be considered part of the official administrative record for this hearing. Other submittals received for this proceeding will be added to this file and will become a part of the administrative record absent a contrary ruling by the Regional Board Chair.

Questions

Questions concerning this proceeding may be addressed to David Coupe, Staff Counsel at (916) 327-4439.

IMPORTANT DEADLINES

(Note: the Regional Board is required to provide a hearing within 90 days of issuance of the Complaint (Water Code Section 13323). The Advisory Team will generally adhere to this schedule unless the discharger waives that requirement.)

- | | |
|-------------------|---|
| December 19, 2008 | Prosecution Team issues ACL Complaint to Dischargers and Advisory Team, sends proposed Hearing Procedure to Discharger and Advisory Team, and publishes Public Notice |
| January 5, 2009 | Objections due on proposed Hearing Procedure |
| January 7, 2009 | Advisory Team issues Hearing Procedure |
| January 12, 2009 | Deadline for submission of request for designated party status. |

January 23, 2009	Deadline for opposition to request for designated party status.
January 26, 2009	Dischargers' deadline for waiving right to hearing.
February 6, 2009	Prosecution Team's deadline for submission of evidence, testimony and witness lists.
February 6, 2009	Advisory Team issues decision on requests for designated party status, if any.
February 20, 2009	Remaining Designated Parties' Deadline for submission of evidence, testimony and witness lists.
February 20, 2009	All Designated Parties' deadline for submission of request for pre-hearing conference.
February 27, 2009	All Designated Parties' deadline for submission of rebuttal evidence (if any) and evidentiary objections.
March 11-12, 2009	Hearing

Harold J. Singer
Executive Officer

DATE: _____

[Swiss Mart – Hearing Procedures DRAFT.doc]

05-0068

ENCLOSURE 5

05-0069

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Kang Property, Inc.
 c/o Mr. Sarbjit Kang
 61 Chilpancino Parkway
 Pleasant Hill, CA 94523

2. Article Number

(Transfer from service label)

7006 2760 0003 9496 7431

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

Kang Property, Inc.
 c/o Mr. Sarbjit S. Kang
 61 Chilpancino Parkway
 Pleasant Hill, CA 94523

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

 Agent Addressee

B. Received by (Printed Name)

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C. Date of Delivery

01/23

96150

D. Is delivery address different from item 1? YesIf YES, enter delivery address below: No

3. Service Type

 Certified Mail Express Mail Registered Return Receipt for Merchandise Insured Mail C.O.D.

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4. Restricted Delivery? (Extra Fee)

 Yes

file. UGT, El Dorad

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Control Board

Arnold Schwarzenegger
Governor**ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R6T-2008-0021**

Enclosed please find Administrative Civil Liability Complaint (Complaint) No. R6T-2008-0021 against Kang Property Inc. and Mr. Sarbjit Kang (together "Dischargers") for failure to comply with requirements of Cleanup and Abatement Order No. R6T-2007-0029. The Complaint recommends the California Regional Water Quality Control Board, Lahontan Region (Water Board), impose a civil liability of \$403,900 for these violations.

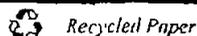
Waiver of Hearing

Pursuant to Water Code section 13323, the Water Board will hold a hearing on the Complaint no later than 90 days after it is served. The Dischargers may elect to waive their right to a hearing before the Water Board and agree to pay the proposed liability. Waiver of the hearing constitutes admission of the validity of the allegations of violation in the Complaint and acceptance of the assessment of civil liability in the amount of \$403,900 as set forth in the Complaint. If the Dischargers wish to exercise this option, it must complete the following:

1. **By 5:00 p.m., January 26, 2009**, an authorized agent must sign the enclosed waiver and submit it to the Water Board, along with cashier's checks in the amount of \$194,400 made payable to the "State Water Pollution Cleanup and Abatement Account" and \$209,500 made payable to the "State Waste Discharge Permit Fund";
2. **By January 30, 2009**, the Dischargers must publish the enclosed public notice in the Tahoe Daily Tribune; and
3. **By 5:00 p.m., February 2, 2009**, the Dischargers must submit verification to the Water Board that the enclosed public notice has been published.

Please note that the Dischargers' waiver and agreement to pay the proposed liability constitutes a proposed settlement that will not become final until after a 30-day public comment period, as provided by the State Water Resources Control Board Water

California Environmental Protection Agency



Recycled Paper

05-0070

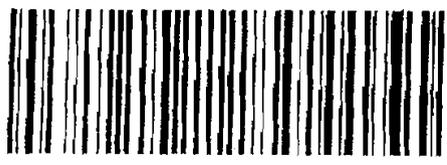
ENCLOSURE 6

05-0071

STATE OF CALIFORNIA
IA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION
2501 LAKE TAHOE BOULEVARD
SOUTH LAKE TAHOE, CA 96150

UNITED STATES POSTAL SERVICE
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OF THE RETURN ADDRESS, FOLD AT DOTTED LINE
CERTIFIED MAIL™



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	NOT DELIVERABLE	MOVED	NO ORDER
	UNABLE TO FORWARD	DECEASED	
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		CARRIER	

Sarbjit S. Kang
Swiss Mart Gas Station
913 Emerald Bay Rd.
South Lake Tahoe, CA 96150

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By *LSO*

05-0072

**RETURN RECEIPT
REQUESTED**

ENCLOSURE 7

05-0078



California Regional Water Quality Control Board
Lahontan Region



Linda S. Adams
Secretary for
Environmental Protection

2501 Lake Tahoe Boulevard, South Lake Tahoe, California 96150
(530) 542-5400 • Fax (530) 544-2271
<http://www.waterboards.ca.gov/lahontan>

Arnold Schwarzenegger
Governor

January 16, 2009

Kang Property Inc.
c/o Mr. Sarbjit Kang
61 Chilpancingo Pkwy, #201
Pleasant Hill, CA 94523
CERTIFIED MAIL: 7007 3020 0001 0921 1908

Robert S. Dodds
Lahontan Water Board
2501 Lake Tahoe Blvd
South Lake Tahoe, CA 06150
(via e-mail only
rdodds@waterboards.ca.gov)

Mr. Sarbjit Kang
Swiss Mart Gas Station
913 Emerald Bay Rd.
South Lake Tahoe, CA 96150
CERTIFIED MAIL: 7007 3020 0001 0921 1915

David S. Boyers
State Water Resources Control Bd.
Office of Enforcement
1001 I Street
Sacramento, CA 95614
(via email only
DBoyers@waterboards.ca.gov)

Mr. Sarbjit Kang
61 Chilpancingo Pkwy, #201
Pleasant Hill, CA 94523
CERTIFIED MAIL: 7007 3020 0001 0921 1922

HEARING PROCEDURES: CONSIDERATION OF AN ADMINISTRATIVE CIVIL LIABILITY ORDER FOR KANG PROPERTY INC. AND SARBJIT KANG, EI DORADO COUNTY

Enclosed is the Hearing Procedures for the above referenced hearing. This notice specifies the procedures that the California Regional Water Quality Control Board, Lahontan Region (Water Board) will follow in conducting the hearing and specifies dates for request for designated party status, submittal of evidence and testimony, rebuttal evidence and testimony, and evidentiary objections. Failure to comply with the deadlines and other requirements contained in the Hearing Procedures may result in the exclusion of your documents or testimony.

Please contact me at (530) 542-5412 or David P. Coupe at (916) 327-4439 if you have any questions about the content of the Hearing Procedures.

Harold J. Singer
Executive Officer

cc: mailing list (all w/enclosure)

Enclosure: Hearing Procedures

HJS/CLH T:transmittal hearing procedures swiss mart

ENCLOSURE 8

05-0075

05-0076



Cal / EPA

STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION
2501 LAKE TAHOE BOULEVARD
SOUTH LAKE TAHOE, CA 96150



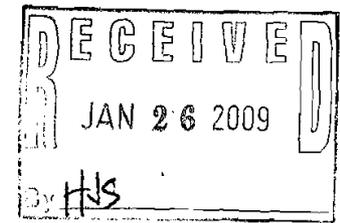
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1-7-09*

Mr. Sarbjit Kang
Swiss Mart Gas Station
913 Emerald Bay Rd.
South Lake T



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96150@7704

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ENCLOSURE 9

05-0077

05-0078



Cal / EPA

STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION
2501 LAKE TAHOE BOULEVARD
SOUTH LAKE TAHOE, CA 96150



UNITED STATES POSTAGE

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 0003084936 JAN 16 2009
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CERTIFIED MAIL™



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Mr. Sarbjit Kang
61 Chilpancingo Parkway #201
Pleasant Hill, CA 94523

DECEIVED
JAN 26 2009
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ENCLOSURE 10

05-0079



Cal / EPA

STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION
2501 LAKE TAHOE BOULEVARD
SOUTH LAKE TAHOE, CA 96150



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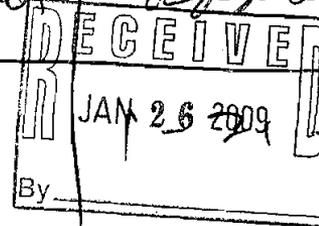
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OF THE RETURN ADDRESS, FOLD AT DOTTED LINE
CERTIFIED MAIL™



7007 3020 0001 0921 1908

Kang Property Inc.
c/o Mr. Sarbjit Kang
61 Chilpancingo Parkway #201
Pleasant Hill, CA 94523

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05-0080

ENCLOSURE 11

05-0081



California Regional Water Quality Control Board Lahontan Region



Linda S. Adams
Secretary for
Environmental Protection

2501 Lake Tahoe Boulevard, South Lake Tahoe, California 96150
(530) 542-5400 • Fax (530) 544-2271
www.waterboards.ca.gov/lahontan

Arnold Schwarzenegger
Governor

January 23, 2009

Harold J. Singer, Executive Officer
California Regional Water Quality Control Board – Lahontan Region
2501 Lake Tahoe Boulevard
South Lake Tahoe, CA 96150

David Coupe, Esq.
Staff Counsel
State Water Resources Control Board
Office of Chief Counsel
1001 I Street
Sacramento, CA 95814

Sarbjit Singh Kang
Swiss Mart Gas Station
913 Emerald Bay Road
South Lake Tahoe, CA 96150

CERTIFIED MAIL: 7006 2760 0003 9497 0004

Sarbjit Singh Kang
61 Chilpancingo Parkway, #201
Pleasant Hill, CA 94523

CERTIFIED MAIL: 7006 2760 0003 9497 2510

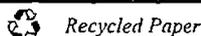
Kang Property, Incorporated
Attn: Sarbjit S. Kang
61 Chilpancingo Parkway, #201
Pleasant Hill, CA 94523

CERTIFIED MAIL: 7006 2760 0003 9496 9442

**TRANSMITTAL OF WRITTEN MATERIALS FOR CONSIDERATION OF AN
ADMINISTRATIVE CIVIL LIABILITY ORDER FOR SARBJIT S. KANG AND THE
KANG PROPERTY, INCORPORATED FOR VIOLATIONS OF (1) CALIFORNIA
WATER CODE SECTION 13267 AND (2) CALIFORNIA WATER CODE SECTION
13304, SWISS MART GAS STATION, 913 EMERALD BAY ROAD, SOUTH LAKE
TAHOE, EL DORADO COUNTY**

Pursuant to the Notice of Public Hearing we received on January 16, 2009, I am submitting the Lahontan Water Board Prosecution Team's written materials for the above-mentioned case. I am also providing 15 copies of the Prosecution Team's written materials for the Lahontan Water Board members.

California Environmental Protection Agency



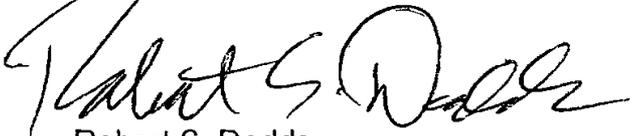
05-0082

Harold J. Singer, David Coupe, Esq.
Sarbjit Singh Kang, Kang Property, Inc.

- 2 -

I recommend reading the material found in Section VI of this submittal first. Therein you will find the subject Administrative Civil Liability Complaint (ACL). The findings of the ACL Complaint along with the findings of Cleanup and Abatement Order No. R6T-2007-0029 (which is Attachment B of the ACL complaint) provide a narrative explanation and justification for the ACL Complaint.

Please contact me at 530-542-5410 if you have any questions regarding this matter.



Robert S. Dodds
Assistant Executive Officer

Enclosures: Water Board Prosecution Team's written materials

cc: David Boyers, State Water Resources Control Board, Office of Enforcement (w/ enclosure)

LSD/clhU:Cleanup and Enforcement/Specialists/Swiss Mart ACL/Swiss Mart ACL evidence transmittal letter 1-22-09
To be filed: UGT, El Dorado Co, 6T0297A

ENCLOSURE 12

05-0084



**PRIORITY[®]
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UNITED STATES POSTAL SERVICE



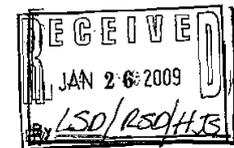
Flat Rate Box

For Domestic and International Use

STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION
2501 LAKE TAHOE BOULEVARD
SOUTH LAKE TAHOE, CA 96150

REF
REF
1-24-09

NO MAIL RECEIPT NO ORDER
ATTEMPTED, NOT KNOWN NO SUCH NUMBER
NO SUCH STREET MOVED NO ORDER
INSUFFICIENT ADDRESS DECEASED
NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD REFUSED UNCLAIMED
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05-0085

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input checked="" type="checkbox"/> X <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) C. Date of Delivery</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>
<p>1. Article Addressed to:</p> <p>Sarjit Singh Kang SWISS MART GAS STATION 913 EMERALD BAY RD. SOUTH LAKE TAHOE, CA 96150</p>	<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label)</p>	<p>7006 2760 0003 9497 0004</p>

ENCLOSURE 13

05-0086



UNITED STATES POSTAL SERVICE



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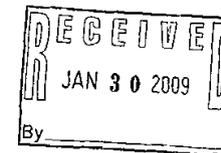
For Domestic and International Use

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STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION
2501 LAKE TAHOE BOULEVARD
SOUTH LAKE TAHOE, CA 96150

FWD



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7006 2760 0003 9497 2510

Sarbjit Singh Kang
61 Chilpancingo Parkway #201
Pleasant Hill, CA 94523

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Sarbjit Singh Kang

KANG061* 945233580 1808 B0 01/29/09
RETURN TO SENDER
KANG PROPERTY INC
MOVED LEFT NO ADDRESS
UNABLE TO FORWARD
RETURN TO SENDER

COMPLETE THIS SECTION ON DELIVERY

- A. Signature Agent
 Addressee
- B. Received by (Printed Name) C. Date of Delivery
- D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

- flat Express Mail
- 1 Return Receipt for Merchandise
- all C.O.D.
- delivery? (Extra Fee) Yes



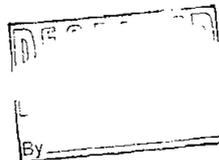
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05-0087

ENCLOSURE 14

05-0088



FEB 4 2009
By



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STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION
2501 LAKE TAHOE BOULEVARD
SOUTH LAKE TAHOE, CA 96150

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS. FOLD AT POSTED LINE.

CERTIFIED MAIL™



7006 2760 0003 9496 9442

Kang Property, Incorporated
Attn: Sarbjit S. Kang
61 Chilpancingo Parkway #201
Pleasant Hill, CA 94523

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

*Kang Property Inc.
Attn: Sarbjit S. Kang*

KANG061* 945233580 2808 B0 01/29/09

RETURN TO SENDER
KANG PROPERTY INC
MOVED LEFT NO ADDRESS
UNABLE TO FORWARD
RETURN TO SENDER

COMPLETE THIS SECTION ON DELIVERY

- A. Signature
 Agent
 Addressee
- B. Received by (Printed Name) C. Date of Delivery
- D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

- Express Mail
 Return Receipt for Merchandise
 C.O.D.
 y? (Extra Fee) Yes

9442

UNITED STATES POSTAL SERVICE

05-0089

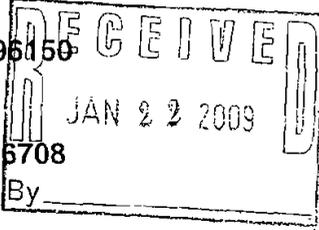
PLEASE PRESS FIRMLY

PLEASE PRESS FIRMLY

ENCLOSURE 15

05-0090

3079 Harrison Avenue,
South Lake Tahoe, CA 96150
Phone (775) 881-1201
Fax (775) 887-2408
Account Number: # 1065708



Legal Account

California Regional Water Quality
Control Board- Lahontan Region
2501 Lake Tahoe Blvd
South Lake Tahoe, CA 96150

Virginia Marsh says:

That (s)he is a legal clerk of the **TAHOE DAILY
TRIBUNE**, a daily newspaper published at South Lake
Tahoe, in the State of California.

**Notice of Public Hearing
For Administrative Civil Liability Complaint
Hearing Scheduled for March 11-12, 2009
Ad # 2873171**

of which a copy is hereto attached, was published in
said newspaper for the full required period of **1 time**
commencing on **January 20, 2009**, and ending **January
20, 2009**, all days inclusive.

Signed: Virginia Marsh

STATEMENT:

Date	Amount	Credit	Balance
01/20/09	\$207.55	\$ 0.00	\$ 207.55

California Regional Water Quality Control Board
Lahontan Region

NOTICE OF PUBLIC HEARING
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT
NO. R6T-2008-0021
ISSUED TO

KANG PROPERTY INC., AND
MR. SARBJIT KANG

SWISS MART GASOLINE SERVICE STATION
913 EMERALD BAY ROAD
SOUTH LAKE TAHOE
EL DORADO COUNTY

HEARING SCHEDULED FOR MARCH 11-12, 2009

The Assistant Executive Officer of the California Regional Water Quality Control Board, Lahontan Region (Water Board) has issued an Administrative Civil Liability (ACL) Complaint pursuant to California Water Code Section 13323 against Kang Property, Inc. and Mr. Sarbjit Kang (Dischargers) alleging that they have violated Water Code Sections 13304 and 13267 by failing to comply with provisions of Cleanup and Abatement Order No. R6T-2007-0029. The Complaint proposes that administrative civil liability in the amount of \$403,900 be imposed as authorized by Water Code Sections 13350 and 13268. The Water Board has currently scheduled a hearing on this matter during its March 11-12, 2009 meeting. The time and location of this meeting has not yet been determined. This information will be available on the Water Board web site (<http://www.waterboards.ca.gov/lahontan/>) no later than February 20, 2009.

The procedures for this hearing along with the ACL Complaint are available on the Water Board web site. These procedures include a number of deadlines for actions relating to the upcoming hearing. Failure to comply with the deadlines and other requirements contained in the hearing procedures may result in the exclusion of your documents and/or testimony. The following is a summary of the deadlines. If you wish to participate in the hearing, you are expected to read and comply with the hearing procedures

A. The Lahontan Regional Water Quality Control Board (Water Board) must receive the submission of evidence, testimony and witness list from the Prosecution Team no later than 5:00 p.m. on Monday, January 26, 2009:

B. The Water Board must receive the following no later than 5:00 p.m. on Wednesday, January 28, 2009:

1. Requests from persons requesting designated party status.
2. Objections to the hearing procedure.

C. The Water Board must receive written objections to requests for designated party status no later than 5:00 p.m. on Wednesday, February 4, 2009.

D. The Water Board must receive the submission of evidence, testimony and witness lists from designated parties other than the Prosecution Team no later than 5:00 p.m. on Tuesday, February 17, 2009:

E. The Water Board must receive the following submittals no later than 5:00 p.m. on Wednesday, February 25, 2009:

1. Written non-evidentiary policy statements from interested persons.
2. Written rebuttal evidence or testimony from all designated parties.
3. Written requests from designated parties or interested persons for additional time for presentation at the hearing.

F. The Water Board must receive written evidentiary objections (if any) to evidence or testimony submitted from all designated parties no later than 5:00 p.m. on Friday, March 3, 2009.

Please contact Robert Dodds at (530) 542-5410 or rdodds@waterboards.ca.gov if you have questions on the ACL Complaint. Please contact Harold Singer at (530) 542-5412 or hsinger@waterboards.ca.gov if you have questions on the hearing procedures.

/s/ DATE: January 15, 2009

Pub: January 20, 2009

Harold J. Singer
Executive Officer
Ad#2873171

05-0091