

California Regional Water Quality Control Board  
North Coast Region

CLEANUP AND ABATEMENT ORDER NO. R1-2000-88  
I.D. NO. 1BSR008 NUG

FOR

REZA BAGHERY  
AMIR K. GHOLAMI  
NADEREH S. GHOLAMI  
PARVIZ GHOLAMI  
MAHMOUD GHOLAMI  
FHTERAM SADAT GHOLAMI

1410 SANTA ROSA AVENUE  
SANTA ROSA

Sonoma County

The California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board) finds that:

1. The Southland Corporation (Southland) owned property located at 1410 Santa Rosa Avenue, Santa Rosa, Sonoma County (APN No. 038-122-22-2) (hereinafter site) as shown on "Attachment A." Southland acquired the site on or about March 15, 1976, and operated the site as a retail gasoline station until approximately June 24, 1987, when it was sold to Keet Nerhan (Nerhan). On or about June 30, 1987, Nerhan sold the site to Khalil Mokalla (Mokalla) and Reza Baghery (Baghery), as tenants in common, who operated the station. Baghery later acquired Mokalla's interest and operated a retail gasoline station until December 1, 1999. Amir K. Gholami, Nadereh S. Gholami, Parviz Gholami, Mahmoud Gholami and Fhteram Sadat Gholami purchased the station and property from Baghery on July 6, 2000. Baghery, Amir K. Gholami, Nadereh S. Gholami, Parviz Gholami, Mahmoud Gholami and Fhteram Sadat Gholami are hereinafter collectively referred to as dischargers.
2. On or before May 31, 1986, Southland caused or permitted the discharge of an unknown quantity of petroleum product at the site. The discharge was caused by a leak in an underground storage tank and/or associated piping, as determined by a subsequent environmental assessment conducted on behalf of Southland.
3. On January 8, 1987, the Regional Water Board issued Cleanup and Abatement Order (CAO) No. 87-15 to Southland. Southland complied with the provisions of the Order.

4. On or before March 3, 1989, Baghery and Mokalla caused or permitted the discharge of an unknown quantity of petroleum product at the site. The discharge was caused by a leak in an underground storage tank and/or associated piping, as determined by the an increase in petroleum hydrocarbon concentrations in groundwater, the discovery of 2.44 feet of free petroleum product in MW-3 on September 21, 1989 and failed tank tests in October 1989.
5. In June 1990, Mokalla was notified that petroleum constituents (benzene) were detected in the domestic well on site at 5 ppb. The maximum contaminant level for benzene in water is 1.0 ppb.
6. On September 18, 1990, the Regional Water Board issued CAO No. 90-187 to Southland, Mokalla, Baghery and Nerhan. Southland complied with the provisions of the Order.
7. On January 2, 1991, Regional Water Board staff notified Nerhan that no additional action would be required of him with regard to CAO No. 90-187 due to arrangements made between Southland and Nerhan that Southland would continue complying with CAO No. 90-187.
8. On January 5, 1994, Southland submitted a "Groundwater Treatment System Evaluation" report for the site. Southland demonstrated that the existing system was technically and economically ineffective in the removal of petroleum hydrocarbons from soil and groundwater at the site. Source removal and system expansion were required to effectively remediate the contaminant plume beneath the site and the potentially overlapping plumes in the area of 1470 Santa Rosa Avenue adjacent to and south of the subject site.
9. On June 23, 1994, Southland and Baghery representatives addressed the Regional Water Board during the public forum and requested the Board's consideration and approval of a revised CAO, including apportioned tasks. The Regional Water Board adopted revised CAO No. 90-187 on September 22, 1994.
10. CAO No. 90-187, as revised, required the following: Southland was directed to remove the underground storage tank system, impacted soil and floating product and design and install an in situ remediation system. Baghery and Mokalla were directed to operate and maintain the redesigned treatment system, conduct quarterly groundwater monitoring, sampling and reporting for all site-related monitoring wells, and conduct regulatory compliance reporting.
11. Southland attempted to comply with the provisions of CAO No. 90-187. In September 1996, Baghery submitted property development plans to the City of Santa Rosa Department of Community Development for the construction of a convenience store obstructing Southland's access to the property to complete their tasks.

12. On October 27, 1997, the Regional Water Board adopted CAO No. 97-111, Time Schedule Order (TSO) No. 97-112 and Resolution No. 97-113. CAO No. 97-111 was issued to Southland, Baghery and Mokalla and included delegated tasks, including one requiring Baghery to eliminate the access obstruction. TSO No. 97-112 was issued to Baghery and Mokalla and contains CAO No. 97-111 tasks and predetermined administrative civil liabilities to be imposed upon failure to complete the required tasks. By Resolution No. 97-113, the Regional Board authorized the Executive Officer to refer the case against Baghery and Mokalla to the Attorney General. To date, the Executive Officer has not referred this case to the Attorney General.
13. On July 23, 1998, the Executive Officer informed Southland, Baghery and Mokalla that Southland complied with the provisions of CAO No. 97-111. The Executive Officer further advised Southland, Baghery, and Mokalla that no further investigative or cleanup work was required of Southland with regard to CAO No. 97-111 or the investigation or cleanup of releases from the fuel storage and dispensing systems at the site. Baghery and Mokalla were advised of their continuing responsibilities under CAO No. 97-111 and TSO No. 97-112 as of July 24, 1998.
14. Baghery and Mokalla immediately violated the CAO No. 97-111 and TSO No. 97-112 requirement to operate and maintain the redesigned treatment system once Southland withdrew from further investigation and cleanup activities at the site.
15. An evidentiary hearing on the violations was held before the Regional Water Board on September 23, 1999. At the conclusion of the hearing, the Regional Water Board directed the Executive Officer to issue an Administrative Civil Liability Complaint to Baghery for violations of TSO No. 97-112. The Regional Water Board declined to direct the issuance of an Administrative Civil Liability Complaint to Mokalla based on Baghery's 1991 agreement to indemnify, defend and hold Mokalla harmless from any and all liabilities and obligations regarding the soil and groundwater contamination at the site.
16. Administrative Civil Liability Complaint No. 99-68 was issued by the Executive Officer on September 29, 1999 for \$292,000.00 in accordance with the Regional Water Board directive. On September 29, 1999, Baghery requested a second hearing before the Board.
17. A second evidentiary hearing on the matter was held before the Regional Water Board on October 28, 1999. At the conclusion of the hearing, the Regional Water Board directed the Executive Officer to issue Administrative Civil Liability (ACL) Order No. 99-73 to Baghery for \$250,000.00 with provisions for suspension upon Baghery's completion of several critical actions and his continuous good faith operation of the soil and groundwater treatment system.

18. On July 6, 2000, Amir K. Gholami, Nedereh S. Gholami, Parviz Gholami, Mahmoud Gholami and Fhteram Sadat Gholami took title of 1410 Santa Rosa Avenue. As a result of the transfer of title, this Order is required to include the current property owners as parties that are responsible for the cleanup of the site. The current owners are liable as owners of a property where an unauthorized release of a hazardous substance from an underground storage tank system has and continues to occur. Mr. Baghery remains liable due to the discharges of a hazardous substance that occurred during his ownership and operation of the retail gasoline station.
19. As enumerated in the Water Quality Control Plan for the North Coast Basin, existing and potential beneficial uses of groundwater in the vicinity include:
- domestic water supply;
  - agricultural water supply;
  - industrial water supply;
  - municipal water supply.
20. The dischargers have caused or permitted, cause or permit, or threaten to cause or permit waste to be discharged or deposited where it is, or probably will be, discharged into waters of the state and create, or threaten to create, a condition of pollution or nuisance. The groundwater contamination has affected the beneficial uses of State waters. The discharge and threatened discharge of waste is deleterious to the beneficial uses of water and is creating and threatens to create a condition of pollution which threatens to continue unless the discharge and threatened discharge is permanently abated.
21. This enforcement action is being taken for the protection of the environment and, therefore, is exempt from provisions of the California Environmental Quality Act (Public Resources Code, Section 21000 et seq.) in accordance with Section 15321, Chapter 3, Title 14, California Code of Regulations.

**THEREFORE, IT IS HEREBY ORDERED**, pursuant to California Water Code Section 13304, the dischargers shall cleanup and abate the discharge and threatened discharge of waste by complying with the following delegated tasks:

- A. All work must be conducted under the direction of a California registered geologist or professional civil engineer with experience in soil and groundwater investigation and remediation projects.
- B. Submit an acceptable work plan for Executive Officer concurrence to define the vertical and lateral extent of groundwater contamination within 45 days of issuance of this order.

- C. Submit an acceptable report of findings, with a complete work plan and schedule for Executive Officer concurrence for any needed additional effort to define the vertical and lateral extent of contamination, within 45 days of work plan implementation.
- D. Complete additional work tasks in accordance with the final plan and schedule described in C above, within 45 days of Executive Officer concurrence with the plan and schedule.
- E. Submit a report of findings, acceptable to the Executive Officer, for work tasks described in C and D above within 45 days of work plan implementation.
- F. Submit a final Corrective Action Plan (CAP) in compliance with Title 23, Division 3, Chapter 16, Article 11 of the California Code of Regulations within 60 days of Executive Officer concurrence under C or E above.
- G. Implement the final CAP within 60 days of Executive Officer concurrence and completion of the Public Participation requirements described in section 2728 of Title 23, Division 3, Chapter 16, Article 11 of the California Code of Regulations.
- H. Continuously operate and maintain in good faith the groundwater extraction, air sparging and soil vapor extraction soil treatment system.
- I. Comply with Monitoring and Reporting Program No. R1-2000-87.
- J. Continue to perform Tasks H and I until the Executive Officer have determined that the beneficial uses of the groundwater have been restored or water quality objectives will be achieved in a reasonable length of time.
- K. If for any reason the dischargers are unable to perform any activity or submit any documentation in compliance with the work schedule submitted pursuant to this Order and approved by the Executive Officer, the discharger may request, in writing, an extension of time as specified. The extension request must be submitted five days in advance of the due date and shall include justification for this delay including the good faith effort performed to achieve compliance with the due date. The extension request shall also include a proposed time schedule with new performance dates for the due date in question and all subsequent dates dependent on the extension. An extension may be granted for good cause, in which case this Order will be accordingly revised.

Ordered by \_\_\_\_\_  
Lee A. Michlin  
Executive Officer

December 8, 2000

