

**Petition for Review with the State Water Resources Control Board
and
Request for Stay of Sale, Lease and Alteration of Discharging Property Until Review**

October 4, 2011

"Grove Laundry" Site Cleanup, 164 12th Street, Pacific Grove, CA 93950

1. Petitioner:

Cecelia McCoy
164 12th Street
Pacific Grove, California 93950
Phone: 831-333-1567
Email: Cece@mccoyandcompany.biz



When appropriate, please contact Ms. McCoy's attorney, whose supporting documents for this application are also attached herein:

Kathleen P. Clack
Attorney at Law
6061 N. Fresno Street, Suite 101
Fresno, California 93710
Fresno Phone: 559.241.7229
Pacific Grove Phone: 831.647.8923
Email: clacklaw@sbcglobal.net

2. The inaction of the Regional Water Board being petitioned pursuant to Water Code section 13300 and following; section 13399.25 and following:

- A. Cleanup and Abatement Order R3-No. 2006-0016 and R3-2006-0016A, and
- B. Notice of Violation July 25, 2008 for \$6,506,000.

(McCoy Declaration at Exhibits F, G)

3. The date the Regional Water Board was requested to act:

The Regional Board did not act when requested on July 25, 2011. (McCoy Declaration at Exhibits A)

4. Statement of the reasons the inaction was inappropriate and improper:

(McCoy Declaration at Exhibit B)

5. How the Petitioner is aggrieved, at a minimum:

Contaminant Oil

- A. There is free floating oil in the front and side yard of her home, flowing from the immediately adjacent property.
- B. The contaminant oil flows into the groundwater.
- C. There is a monitoring well on the Petitioner's property that contains 6 feet of oil.
- D. The fence on the property line is abutted by soil that contains contaminant oil.
- E. The free floating oil splashes onto the house and area around the locus of the free floating oil.

Non-Disclosure

F. The Regional Board has adopted the Responsible Party/Discharger's method of cleanup in secrecy without approval by the Petitioner or notice to participate in the decisive meeting between them: (McCoy Declaration at Exhibit D, RRM., Inc letter, paragraph 1; Exhibit E)

a. The Regional Board has allowed the Responsible Party/Discharger who owns the adjacent property, to refuse to cleanup the oil.

b. The Regional Board has failed to enforce its CAO.

G. The Regional Board is trying to compel financial participation in the cleanup by the Petitioner who is an innocent landowner. (McCoy Declaration at Exhibit C; E)

H. The Regional Board directive for financial participation by the Petitioner was made without Petitioner's knowledge, consent or written agreement.

I. The Regional Board claims that the Petitioner agreed to participate financially despite the absence of a written agreement. (McCoy Declaration at Exhibit C)

J. The Regional Board agreed with the Responsible Party/Discharger's demand that the Petitioner perform integral elements of the cleanup activities of Petitioner's property, such as engineering, planning, permitting, etc. (McCoy Declaration at Exhibit E; and Daley and RRM., Inc Letters at Exhibit D)

K. The engineering, planning, permitting, etc., had not been implemented when the Regional Board coordinated with the Responsible Party/Discharger to commence interim measures on Petitioner's property, placing the house at risk.

L. The cleanup terms and financial participation were those of the Discharger, implemented through the Regional Board to the Petitioner. (McCoy Declaration at Exhibit D)

M. The Regional Board attempted to coerce the Petitioner into allowing interim measures to commence without full disclosure of the complete action to be performed on Petitioner's property. The Petitioner sent 5 letters of objection to the Regional Board that there was no financial participation agreement. She never agreed to the Discharger's demands developed in secret between the Regional Board and the Discharger.

Misrepresentation

N. The ownership of the land was misrepresented by the Discharger. A well to be removed by Interim Measures is located on the Petitioner's property. However, the Discharger knew that the well is not on his property. The Corrective Action Plan (CAP) produced by the Discharger indicates that the well is on the Petitioner's property. But, the Discharger's Permit Request for drilling, states that the well is on the Discharger's property, when it is not. The Regional Board accepted this misrepresentation and supported and enabled the Interim Measure to commence nonetheless. (McCoy Declaration at Exhibit H 1,2,3,4)

O. The Petitioner believes that the complete cleanup has been misrepresented as interim measures.

6. The Action Requested of the State Water Board:

Petitioner requests that the State Water Board enforce Cleanup and Abatement order R3-No. 2006-0016 and R3-2006-0016A, and Notice of Violation July 25, 2008 for \$6,506,000. Petitioner requests that the Regional Water Board no longer be allowed to participate in the enforcement because of demonstrable bias, failure to achieve enforcement and cleanup of free floating oil.

7. A statement of points and authorities for any legal issues raised in the petition, including citations to documents or hearing transcripts that are referred to.

This Petition is based on enforcement of an existing CAO. The Petitioner's "Statement of the reasons the inaction was inappropriate and improper.", presents points and authorities, citing law and analysis of the legal issues at Exhibit B of the McCoy Declaration.

8. Copies of the petition have been sent to the Regional Water Board and to the discharger.

9. The issues raised in the petition were repeatedly presented to the Regional Board:

The Petitioner tried numerous times to enlighten the Regional Board that the Petitioner was not obligated to pay for any part of the cleanup measures or perform the various actions demanded of her by the Discharger.

Beginning in December 2009, the Regional Board began a campaign to coerce the Petitioner into acquiescence with the Discharger's terms, making the Petitioner a financial participant. (McCoy Declaration at Exhibit C)

Between the Discharger and the Regional Board, a series of misrepresentations, omissions, non-disclosures, and actions continued. On the eve of implementation of Interim Measures on Petitioner's property, the scope of work was incomplete and the Petitioner had unresolved safety issues regarding security of her home and the home's foundation. The Petitioner tried to get the Regional Board to address the inadequacies and errors in the scope of

work with which it had previously concurred. The Petitioner's 5 written requests to the Regional Board went unanswered. As a result, she was compelled to postpone the Interim Measures, due to failure of the Regional Board to recognize her objections, the Regional Board's erroneous and incomplete scope of work, and the resolved safety issues. The Discharger and the Regional Board thereafter abandoned the cleanup.

The Petitioner tried to get the Regional Board to follow through on the cleanup. But the Regional Board failed to act.

10. Request for Stay of Sale, Lease and Alteration to Discharging Property Until Review

The Petitioner requests a stay of sale, lease or any action that alters the adjacent discharging property, until the State Water Board has reviewed and determined appropriate action to enforce the CAO against the Discharger.

1. There will be substantial harm to the petitioner or to the public interest if a stay is not granted:

There will be substantial harm to the Petitioner or to the public interest if a stay is not granted because anything that alters the character of the land will impair all opportunity to stop the flow of contamination onto the Petitioner's land. The land will be adversely impacted and or lost by any alteration of the character of the Discharger's adjacent land, from where the oil contaminant flows onto the Petitioner's land.

The CAO to stop the contamination flow onto Petitioner's property necessitates the remediation of the Discharger's property.

Alteration of the adjacent Discharger's property will change its character and substance, and make it impossible to implement adequate and necessary remediation. Alteration will forever change the nature of the flow of the oil and the columns of oil movement in the soil through the Discharger's property, changing the path(s) of contaminant flow for remediation and protection of the downhill properties from existing and or residual contaminant in the soil and groundwater. It will destroy the opportunity to properly cleanup the Discharger's property so that the Petitioner's property cannot be remediated and the flow of oil onto Petitioner's land permanently stopped.

This situation presented itself before. The Discharger altered the land in 1993. He sold the land and building adjacent to his existing lot. The Discharger did not backfill or compact his existing land after it was excavated. Thereafter, oil resurfaced. It must be prevented from happening again.

Without State Water Board intervention by a stay during the pendency of this Petition, the Discharger's land could be sold or transferred before remediation occurs.

2. There will be no substantial harm to other interested persons and to the public interest if a stay is granted.

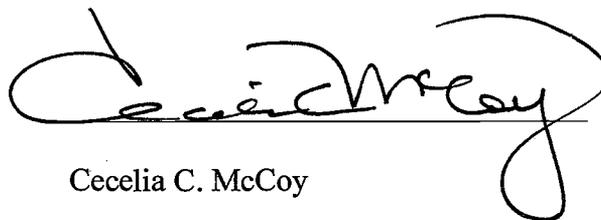
The land where the discharge originates has been vacant for almost two decades. There can be no harm to the Responsible Party/Discharger if it remains vacant a little longer. If the Discharger tries to use the land in a way that alters the land, the necessary remediation cannot be performed or will be substantially impaired. If remediation is impaired in any way, the public and Petitioner's interest will be irreparably harmed.

The oil discharge is less than 1/4 mile uphill from the Monterey Bay Sanctuary, into which the underground water flows. A stay will assure proper remediation occurs in order to protect all suspect contaminant recipients.

3. There are substantial questions of fact or law regarding the disputed action. The Petitioner has described above, and in the attached Exhibit B to the McCoy Declaration, numerous facts alleged by the Regional Board which the Petitioner disputes. The questions of law that apply are related to fundamental due process and allegations of misrepresentation, as above. These matters must be resolved before allowing the character of the land to change.

Respectfully submitted,

Dated: October 5, 2011



Cecelia C. McCoy

**Declaration of Cecelia C. McCoy, Petitioner
in Support of
Request for Stay of Sale, Lease and Alteration of Discharging Property Until Review by the
State Water Resources Control Board**



Federal Express 876 4715 0162

1. Through the Cecelia C. McCoy Trust, I am the owner of the house and property on 164 12th Street, Pacific Grove, California 93950.
2. I am not the Discharger/Responsible Party subject to Cleanup and Abatement Order R3-No. 2006-0016 and R3-2006-0016A.
3. The Stay being requested in the Petition is necessary because there will be substantial harm to me or to the public interest if a stay is not granted.
4. My house is a 1895 Victorian house with a wood structure and pier and beam foundation.
5. The oil discharge is less than 1/4 mile uphill from the Monterey Bay Sanctuary, into which the underground water flows.
6. My property is downgradient from adjacent 166 12th Street by about 4 feet to 6 feet at the south property line, about 3 feet from my house.
7. The contaminant oil flows onto my property from 166 12th Street owned by M. Douglas Gustafson, vacant for almost two decades. The oil floats freely in 2 open trenches in my front and side yard during the rainy season. The contaminant oil also moves up and down through pathways of oil and contaminant water in the adjacent soil. It seeps through the retaining wall dispelling sandy soil in increasing quantities annually.
8. 166 12th Street was exposed when the old Grove Laundry Building was partially removed in 1993, leaving a vacant lot open to the elements. The rain penetrates the un-compacted soil on 166 12th Street carrying water containing oil through the soil onto my property in rivulets 4-6 feet below.
9. This situation happened before when the Discharger altered the land in 1993. The Discharger did not backfill or compact his then existing land after it was excavated. Thereafter, oil re-emerged.
10. Any alteration to 166 12th Street could well increase the oil spill on all of the downgradient my properties, private and public, if proper cleanup measures are not imposed first.
11. I have disputed the facts as alleged by the current Regional Water Quality Control Board at San Luis Obispo.

12. I never agreed to becoming a financial participant in the cleanup by the Discharger.

13. I never signed any document evidencing any agreement between myself, the Discharger or the Regional Water Board.

14. Attached are true and correct copies of the following documents referenced in the Petition and Supporting Response to Item No. 4 re: Statement of the reasons the inaction by the Regional Water Quality Control Board was inappropriate and improper.

Exhibit A: Letter of request to the Regional Water Quality Resources Control Board (Regional Board) to enforce Cleanup and Abatement Order R3-No. 2006-0016 and R3-2006-0016A, dated July 25, 2011.

Exhibit B: Petitioner's statement of the "Reasons that the Regional Board's inaction was inappropriate and improper."

Exhibit C: December 31, 2009 letter from the Regional Board to the Responsible Parties of the Former Grove Laundry site, indicating my financial participation of the cleanup costs.

Exhibit D: July 19, 2010 letter from Timothy Daley to the Regional Board stating the specific conditions required of me by the Discharger/Responsible Party before cleanup would be performed; and July 19, 2010 letter from the Discharger's consultant, RRM., Inc., to the Discharger stating that a meeting took place between RRM., Inc., and the Regional Board. The July 19, 2010 RRM., Inc., letter also expresses the conditions imposed on me by the Discharger/Responsible Party and the Regional Board.

Exhibit E: August 10, 2010 letter from the Regional Board to the Responsible Parties that the Regional Board concurs with the letters and scope of work contained in the July 2010 Corrective Action Plan (CAP), in Exhibit D, above, all of which require me to participate financially and perform work for the Discharger/Responsible Party.

Exhibit F: Cleanup and Abatement Order R3-No. 2006-0016 and R3-2006-0016A by the Regional Board

Exhibit G: Notice of Violation July 25, 2008 for \$6,506,000 from the Regional Board to the Discharger/Responsible Party

Exhibit H: Documents associated with the Interim Measures that were to be performed in November 2010:

1. RRM., Inc., "Soil Concentration Map", produced for the

Discharger/Responsible Party, inaccurately indicates that Monitoring Well 1 (MW1) straddles my property

2. March 2011 "Planimetric Map", by Central Coast Surveyors indicating that MW1 is on my property.
3. October 29, 2010 Soil Boring Permit Application by the Discharger/Responsible Party to the Monterey County Health Department for soil boring, stating that the boring is to occur on 472 Lighthouse which the Discharger/Responsible Party states that he owns. But, the boring is to remove MW1 located on my property, in my side yard, 3 feet from my house at 164 12th Street.
4. August 22, 2008 letter from the Regional Board to the Responsible Parties stating that MW1 is located on the offsite neighbor's property, which is my property, 164 12th Street.

Exhibit I: My letters to the Regional Board documenting 1) my objections to the demands by the Discharger/Responsible Party that it is not my responsibility to participate financially in the cleanup or perform any part of the cleanup, and 2) asking for disclosure of scope of work safety plan for Interim Measures:

1. July 23, 2010 letter responding to the Regional Board.
2. August 12, 2010 letter responding the Regional Board's concurrence with the July 19, 2010 CAP.
3. August 24, 2010 letter again requesting that the Board respond to my July 23, letter above.
4. September 10, 2010 letter requesting for the 3rd time that the Board respond to my July 23, letter above.
5. September 23, 2010 letter to the Regional Board clarifying our position regarding all of the above letters and lack of response from the Board.

I declare that the foregoing is true and correct upon my information and belief under the laws of the State of California, executed this day October 5, 2011 in Pacific Grove, California.


Cecelia C. McCoy

EXHIBIT A

KATHLEEN P. CLACK

PACIFIC GROVE
(831) 647-8923
FAX (831) 375-0813

ATTORNEY AT LAW
6061 NORTH FRESNO STREET, SUITE 101
FRESNO, CALIFORNIA 93710

FRESNO
(559) 241-7229
FAX (559) 241-7256

July 25, 2011

Mr. Roger Briggs
Executive Director
California Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, California 93401

Certified Mail 7004135000093519377

RE: 164 12th Street, Pacific Grove, CA

Dear Mr. Briggs:

This letter constitutes our request to the Regional Water Resources Control Board ("Regional Board") to please enforce cleanup of the oil at 164 12th Street, Pacific Grove, California. Currently there is no action being taken by the Regional Board for full cleanup of the site pursuant to Corrective Action Order (CAO) No. R3- 2006-0016 and A.

Very truly yours,



Kathleen P. Clack

c: Cecelia C. McCoy

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"/> <i>R.M. Switzer</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>RYAN SWITZER</i> C. Date of Delivery <i>7/27</i></p>
<p>1. Article Addressed to:</p> <p><i>Roger Briggs Executive Director CA Regional Water Quality Control Board 895 Aerovista Place, Suite San Luis Obispo, CA 93401 101</i></p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:</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><i>7004 1350 0000 9351 9377</i></p>
<p>PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540</p>	

7004 1350 0000 0527 4007

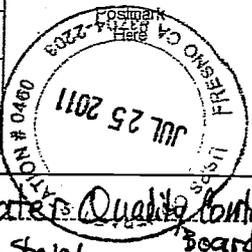
7256 15E6 0000 0527 4007

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Sent To
Roger Briggs, CA Reg. Water Quality Control Board
Street, Apt. No.:
PO Box No. *895 Aerovista Place, Ste 101*
City, State, ZIP+4
San Luis Obispo, CA 93401

PS Form 3800, June 2002 See Reverse for Instructions

EXHIBIT B

KATHLEEN P. CLACK

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FRESNO, CALIFORNIA 93710

FRESNO
(559) 241-7229
FAX (559) 241-7256

October 5, 2011

State Water Resources Control Board
Office of Chief Counsel
Jeannette L. Bashaw, Legal Analyst
1001 I Street
Sacramento, California 95812

Federal Express 876 4715 0162

RE: Petition For Review
Response to Item No. 4 of the Petition: "Statement of the reasons the
Regional Water Board inaction was
inappropriate and improper."
Site: "Grove Laundry" Site Cleanup, 164 12th Street, Pacific Grove, CA 93950

Dear State Water Board:

PURSUANT TO STATE WATER BOARD ENFORCEMENT POLICY:
Petitioner, Cecelia McCoy hereby supports her petition the State Water Board enforcement
of Corrective Action Order (CAO) No. R3- 2006-0016 and R3-2006-0016A in lieu of the
Central Coast Regional Water Board for:

- 1. Abandonment of Cleanup and Abatement order R3-No. 2006-0016 and R3-2006-0016A (McCoy Declaration at Exhibit F);**
- 2. Failure to Enforce Notice of Violation July 25, 2008 for \$6,506,000 (McCoy Declaration at Exhibit G) ;**
- 3. Demanding financial participation from the victim Petitioner under protest, without written agreement, or due process;**
- 4. Adoption of the responsible party's corrective action plan and demand for financial participation from the victim, devised together with the responsible party in an undisclosed meeting, excluding the victim, in denial of the victim's due process rights.**

In 2006 Cleanup or Abatement Order No. R3-2006-0016 and R3-2006-0016A was issued to M. Douglas Gustafson to cleanup an oil spill on 164 12th Street and 166 12th Street. He has been determined to be the Discharger. When it was not completed by July 2008, a Notice of Violation with fines in the amount of \$6.5 million was issued to Mr. Gustafson.

Failure to Enforce

The Petitioner, Ms. McCoy requested that the Regional Board enforce the CAO on July 25, 2011. The Regional Board has since been silent and inactive.

In November 2010, the Regional Board authorized the Discharger to conduct Interim Measures, which did not occur for want of due process, as below. Free floating oil product continues to remain visible and in situ at 164 12th Street in Pacific Grove. The Regional Board has abandoned the site.

Therefore, under the authority of the Porter-Cologne Water Quality Control Act (Porter-Cologne), as contemplated by the California State Legislature when it declared that the "state must be prepared to exercise its full power and jurisdiction to protect the quality of the waters in the state from degradation...." (Water Code section 13000), the victim, Ms. Cecelia C. McCoy seeks relief from the State Water Board to commence the enforcement of CAO No. R3-2006-0016 and R3-2006-0016A entirely in lieu of the Regional Water Board.

Failure to Disclose

The Regional Board has conducted meetings with the Discharger without notice or the participation of Ms. McCoy. It has adopted the Discharger's Corrective Action Plan and demands for Ms. McCoy's financial participation in the cleanup and demands that she produce engineering plans, obtain permits, perform house lifting, backfill excavation, concrete pours, backfill after contaminant soil removal, and more. The Regional Board has alleged an agreement between the Discharger and Ms. McCoy to which she has not agreed.

The Regional Board is no longer neutral. It has taken the side of the Responsible Party/Discharger and abandoned the innocent landowner to the detriment of Ms. McCoy. Despite numerous attempts, the Regional Board has displayed a bias that could not be cured and because of which it can no longer be trusted to act in the best interest of the Petitioner and the Public.

Lack of Neutrality

The Regional Board has taken a position most favorable to the Responsible Party/Discharger causing irreparable harm of the Petitioner; one that compels the victim, the innocent landowner, to perform and financially contribute to removal of oil that Petitioner did not bring to her property. The Regional Board has become coercive, using private meetings and undisclosed deals with the Responsible Party/Discharger to force conditions upon the Petitioner that were not made known to her. Thereafter she was and has been held liable for the terms agreed between the Discharger and the Regional Board. The Regional Board's conduct violates due process, particularly since the oil contamination on the Petitioner's property remains unabated and the Regional Board failed to enforce its own CAO.

Misrepresentation

In November 2010 the Regional Board approved Interim Measures be taken on November 11. Ms. McCoy made multiple requests to the Regional Board and the Discharger, Mr. Gustafson, for information about the specifics of the activities planned on the her property, and the specific measures to be taken to protect her historic home (Historic Register). (See Letters, McCoy Declaration at Exhibit I)

On the eve of commencement of the Interim Measures, November 10, Mr. Gustafson produced some of the requested omitted information. (See McCoy Declaration at Exhibit H, 3) To Ms. McCoy's dismay, this information revealed the existence of a drilling application for a permit from the Monterey County Health Department (Health Department) by Mr. Gustafson on October 29, 2010. Neither the drilling application nor the scope of drilling work had been given to her.

The documents showed that Mr. Gustafson had signed the application as the legal owner of the property on which a well containing oil (MW1) sits. The application was for the removal and destruction of MW1. However, Ms. McCoy owns the land under MW1, not Mr. Gustafson. The application also bears Mr. Gustafson's signature as owner of 472 Lighthouse. However, Mr. Gustafson does not own 472 Lighthouse. He owns 166 12th Street, where the drilling platform was to be located. (See McCoy Declaration at Paragraph 3)

The November 10 documents disclosed that the drilling contract was for the removal of MW1. The drill was to be placed on 166 12th Street. By placing the drill on 166 12th Street, Mr. Gustafson's contractor proposed to somehow reach over onto Ms. McCoy's land where MW1 is located about 4 feet below. But no support for the drill had been proposed. Significantly, MW1 is about 3 feet from her living room wall. (See McCoy Declaration at Exhibit H, 1, 2, 4) Any placement of equipment and drilling at this location must be protective of her house. The structure has to be supported if the soil compaction is disturbed by excavation and the weight of the equipment or a drilling platform accident.

The misrepresentation of ownership appeared to circumvent Ms. McCoy so that the drilling could occur without her input, and technical and engineering review. Her review would have alerted her to the omission of structural support for her house.

All of the misrepresentations caused Ms. McCoy grave concern over the failure to disclose the true facts to the Health Department and why the Regional Board approved of the Corrective Action Plan (CAP) scope of work. She was troubled by the Regional Board's apparent complicity in the non-disclosure. It had authorized the Interim Measures to proceed despite its previous orders to protect the house and property. It ignored her pleas to fully reveal what was about to take place on her land, and respond to her discredit of the alleged agreement for financial and other participation in the cleanup measures.

Because of the November 10 revelations, Ms. McCoy's pleas based on her fear for the safety of her house became more pronounced. She feared that her house would fall due to inadequate support during drilling and excavation, because it is a wooden structure on a pier and beam foundation. The Regional Board had previously directed in the CAO in 2006 and repeated thereafter, that,

"Remedial actions shall not damage or compromise property structures such as the retaining wall and house located on the McCoy property. All site features on the McCoy property must be returned to their original condition...". Regional Water Board CAO R3-2006-016, July 19, 2006, page 5, paragraph 4e, "IT IS HEREBY ORDERED pursuant to Water Code Sections 13267 and 13304". (McCoy Declaration at Exhibit F)

The Regional Board did not then, nor since, respond to Ms. McCoy's five (5) formal urgent written requests for help. (See letters to Regional Board at Exhibit I) Ms. McCoy had no choice but to postpone the Interim Measures, and wait for the enforcement of the CAO in the summer of 2011.

Conditions Precedent

The Interim Measures that were to have been implemented in November 2010 had been changed from those originally planned for two years. Originally the oil in MW1 was to be removed, leaving the well casing in place. By November 10, the entire well was to be removed, which requires a different scope of work, such as protection of the McCoy house a few feet away and the capture of released oil. No plans were given to Ms. McCoy for a potential oil spill, a safety plan, a scope of work...in short, a removal action had not been presented to Ms. McCoy as had the CAP in 2006, fully vetted with comments and input from experts and the public.

The specific demands by Discharger, Mr. Gustafson, and the Regional Board are that Ms. McCoy contribute financially to the project, perform the stabilization and lifting of her house to enable soil removal and remediation, design and construct a new foundation to her house, obtain permits, prepare engineering and grading plans, backfill after excavation, while Mr. Gustafson would remove the contaminant soils.

Ms. McCoy had not been a party to the demands developed between Mr. Gustafson and the Regional Board. She had no knowledge and has never agreed to the conditions demanded by the Discharger, Mr. Gustafson. In the July 29, 2010 Revised CAP, she first learned of a meeting in which his demands were agreed by the Regional Board in a letter by his consultant, RRM, Inc. RRM enclosed a letter in the Revised CAP which referenced the May 20, 2010 meeting. Ms. McCoy had not been notified of the meeting between Mr. Gustafson and the Regional Board, nor was her participation requested or the outcome provided. (McCoy Declaration at Exhibit D, RRM., Inc. Letter)

The Regional Board provided a June 1, 2010 CAP to Ms. McCoy on July 7. Two weeks later, on July 21, the Regional Board forwarded another CAP to Ms. McCoy dated July 19. Both CAPs contained new conditions precedent to well removal dictated by the Discharger. Ms. McCoy could not agree to either CAP because of the conditions.

Citing to the July 19 CAP, the Regional Board again expressly concurred on August 10, 2010 with Mr. Gustafson's demands upon Ms. McCoy, "Water Board staff concurs with the scope of work included in the July CAP and the contents of the cover letter." (McCoy Declaration at Exhibit E; Daley and RRM, Inc., Letters at Exhibit D) She did not agree with the work attributed to her in the letters. Nothing attesting to her agreement had been memorialized in a writing with her signature. A responsible regulator cannot enforce an agreement that does not exist.

The May 20, 2010 meeting was appallingly covert, a demonstrable conflict of interest between the Regional Board and the Discharger. This is not open government. This is government deliberately excluding a party, a stakeholder who is an innocent landowner, upon whom the Regional Board changed the State rules. It is a failure of due process.

The Regional Board has a statutory duty to protect the waters of the state from contamination, which includes the innocent landowner. (State Enforcement Policy, Formal Enforcement Orders, 4. CAOs pursuant to California Water Code section 13304, page 34-35, No. 4, State Water Board Resolution No. 92-49, "Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under Water Code Section 13304,") If there are to be major changes without informing the landowner or amending the scope of work, there is no purpose served by the Regional Board. It has not.

By its conduct, the Regional Board has continued to allow contamination of the ground waters of the State along with the Discharger.

The Regional Board is a government agency constitutionally obligated to be objective and neutral, not make deals with the Discharger, in secret, to the detriment of the victim. When the conditions imposed by Mr. Gustafson, and supported by the Regional Board, became known to her, Ms. McCoy began writing letters to the Regional Board objecting to the entire process.

The Regional Board has abandoned enforcement of the entire July 2006 CAO, when it was only the Interim Measures that were postponed. The Regional Board is so committed to Mr. Gustafson's conditions precedent that it is willing to do nothing to enforce removal of oil contaminant groundwater, in spite of the its own CAO and \$6.5 million fine.

This absurd twist on enforcement punishes the victim and absolves the Discharger of responsibility for the harm done and performing the cleanup. The Discharger has now received a virtual "pass" on the cleanup from the Regional Board.

State Water Resources Control Board
October 5, 2011
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The incredible delays enabled and supported by the current staff at the Regional Board in collaboration with Mr. Gustafson portend only the worst kind of conduct in this era where government transparency should be the only watch words.

Conclusion

The abysmal lack of responsiveness by the Regional Board and the unethical pressure on the innocent victim to perform any part of the CAO requires the State Water Board to take the CAO from the Regional Board so that the CAO enforcement can be performed. The Regional Board no longer even demands monitoring reports on the existing wells and contamination, and has abandoned the entire concept that the victim's property must be restored to its original condition.

Soils and waters of the State are contaminated. The Central Coast Regional Board has failed to perform its mandated duty. The State has the justifiable opportunity to commence the fines of a responsible party who has obstructed the cleanup of contaminant water. There could be no more worthy circumstance that the Legislature contemplated and promulgated Notices of Violation and enforcement actions. It is imperative that the State Board, pursuant to its statutory authority, take over enforcement action from this Regional Board, which will not implement cleanup at the Grove Laundry site.

This is a small site, easily cured, as regional officer John Robertson once told me, "We do it every day." But the responsible party has so influenced the Regional Board that the site is threatened to remain unabated forever. The victim has no choice but to seek the State Board's enforcement. Please do so immediately.

Respectfully submitted,



Kathleen P. Clack
Attorney for Cecelia C. McCoy

EXHIBIT C



California Regional Water Quality Control Board

Central Coast Region



Linda S. Adams
Secretary for the
Environment

Internet Address: <http://www.waterboards.ca.gov/centralcoast/>
895 Aerovista Place, Suite 101, San Luis Obispo, California 93401
Phone (805) 549-3147 • FAX (805) 543-0397

Arnold Schwarzenegger
Governor

December 31, 2009

Mr. Douglas Gustafson
lorddouglas@comcast.net
The Tamarind Group
P.O. Box 1318
Pebble Beach, CA 93953

Mr. Thomas and Ms. Leslie DiMaggio
3188 Susan Avenue
Marina, CA 93933

Mr. Galen Blackwell
857 Grove Acres
Pacific Grove, CA 93950

Dear Responsible Parties:

SITE CLEANUP PROGRAM: FORMER GROVE LAUNDRY SITE, 472 LIGHTHOUSE AVENUE AND 166 12TH STREET, PACIFIC GROVE, MONTEREY COUNTY – RESPONSE TO REQUEST FOR EXTENSION TO WATER BOARD LETTER DATED OCTOBER 19, 2009

Central Coast Regional Water Quality Control Board (Water Board) staff concurs with your December 4, 2009 request for a 90-day extension to respond to our October 19, 2009 comment letter. Water Board staff concurs with the extension request because of the following:

- 1) The Responsible Parties have agreed to improve the proposed cleanup approach by removing additional waste by temporarily lifting the McCoy residence;
- 2) A 90-day extension will not change the existing proposed startup date for cleanup work, which is the next dry season;
- 3) The Responsible Parties are required to continue to abate the nuisance conditions during the current wet season (e.g., using sorbent pads to soak up oil wastes that reach ground surface);
- 4) Ms. McCoy and her representatives are amenable to the proposed change to temporarily lift the residence to facilitate a more thorough removal of waste; and
- 5) Based on currently available field data, removal of additional waste beneath the McCoy residence will lead to a more expedited cleanup and closure of this case.

During a site inspection on November 17, 2009, Water Board staff, Mr. Gustafson, and Mr. Matt Kaempf from RRM discussed an extension request related to redirection toward additional removal of oily wastes by lifting the McCoy residential structure. As staff indicated during the November 17, 2009 field inspection, Water Board staff will require a minimum of two post-remedial groundwater monitoring events confirming the effectiveness of the cleanup, and robust soil sampling along the excavation area adjacent to 12th Street to confirm the efficacy of waste removal.

California Environmental Protection Agency

Water Board staff also discussed with Mr. Gustafson and RRM the logistics of removing the waste to the "extent practicable" given the soil-bedrock interface that will be encountered during excavation. Based on known field conditions on the extent of the oily waste, especially the free phase oil remaining in the area of the "sump well," staff recommended that after the overburden is removed to expose the bedrock interface using an excavator, additional work should ensue manually in accordance with proper health and safety practices to remove pockets of waste residing among the undulations in the soil-bedrock interface.

Accordingly, the Responsible Parties are required to submit the following no later than March 17, 2010:

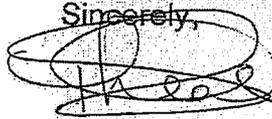
- 1) A revised Corrective Action Plan incorporating the revised scope of work for temporarily lifting the McCoy residence;
- 2) Submit a response to address our October 19, 2009 comment letter;
- 3) A site map showing a compilation of all soil and groundwater data defining the extent of pollution to gain a more accurate understanding of the logistics for attaining a more thorough removal of waste;
- 4) A detailed description for waste removal addressing the soil-bedrock interface, as noted in the above paragraph; and
- 5) A realistic plan for post remedial site restoration to prevent impacts to adjacent properties; for example surface water drainage and slope stability.

Failure to comply with this deadline will subject the Responsible Parties to enforcement action, based on the original due date. To ensure progress in implementing the revised scope of work, Water Board staff also concurs with your proposal for submitting a draft final Corrective Action Plan by February 17, 2010.

Prior to submittal of the final Corrective Action Plan, it is imperative that coordination occurs between all parties on timing for lifting the residence, a clear demarcation of expectations of cost arrangements, and final plans for lowering the residence. Water Board staff's expectation is that the parties will work toward mutually agreed upon scheduling and cost arrangements. We look forward to and we concur with RRM's anticipated completion of remedial activities by September 30, 2010.

In you have any questions, please contact Dan Niles at (805) 549-3355 or Thea Tryon at (805) 542-4776.

Sincerely,



for Roger W. Briggs
Executive Officer

**Responsible Parties
Request for Extension**

3

December 31, 2009

S:\Seniors\Shared\Site Cleanup Program\REGULATED SITES\Monterey Co\Pacific Grove\472 Lighthouse - Grove
Laundry\Response to Request for Extension 12-30-2009.doc
CC:

Mr. Matt Kaempf
matt@rrmsc.com
Remediation Risk Management, Inc.
2560 Soquel Avenue, Suite 202
Santa Cruz, CA 95062

Mr. Bruce Myers
bruce@salemenggroup.com
SALEM Engineering Group, Inc.
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Mr. Timothy Daley
T.Daley@MPGLAW.com
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225 Broadway, Suite 1900
San Diego, CA 92101

Cecelia McCoy
cece@mccoyandcompany.biz
164 12th Street
Pacific Grove, CA 93950

Mr. Mark Hudak
Carr, McClellan, Ingersoll, Thompson, &
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Burlingame, CA 94011-0513

Ms. Barbara May
Bohnen, Rosenthal & Dusenbury
P.O. Box 1111
Monterey, CA 93942

Dr. Tony and Ms. Clair Cedolini
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San Jose, CA 95120

City of Pacific Grove
Community Development Dept.
300 Forest Avenue
Pacific Grove, CA 93950

Mr. Robert Giattino
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Remediation Risk Management, Inc.
2560 Soquel Avenue, Suite 202
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Ms. Sally Kane
149 13th Street
Pacific Grove, CA 93950

Mr. Cory Welch
Welchc@co.monterey.ca.us
Monterey County Health Department
1270 Natividad Road
Salinas, CA 93906

Mr. George Grayson
PO Box 1093
Pacific Grove, CA 93950

Mr. Steve Krcik
Red Hills Environmental, Inc.
18150 Gloria Court
Los Gatos, CA 95033

Mr. George Grayson
2317 East Yvonne Drive
Fayetteville, AR 72703

Ms. Kim Rowe
159 12th Street
Pacific Grove, CA 93950

Mr. John Kurzenhauser
160 12th Street
Pacific Grove, CA 93950

Mr. Lloyd and Ms. Nancy Coyne
7019 Schmidt Lane

California Environmental Protection Agency

**Responsible Parties
Request for Extension**

4

December 31, 2009

El Cerrito, CA 9453

Ms. Frances McChesney
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Mr. Dean Flippo

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Deputy Attorney Courthouse
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Monterey, CA 93940

Mr. Michael Burns
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Kleinfelder
2240 Northpoint Parkway
Santa Rosa, CA 95407-5009

California Environmental Protection Agency



EXHIBIT D

MUSICK, PEELER & GARRETT LLP
ATTORNEYS AT LAW

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LOS ANGELES
ORANGE COUNTY
SAN DIEGO
SAN FRANCISCO
SANTA BARBARA
WESTLAKE VILLAGE

FILE NO.: 33246.001

July 19, 2010

VIA E-MAIL ONLY

dniles@waterboards.ca.gov

Mr. Dan Niles
California Regional Water Quality Control Board
Central Coast Region
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401

Re: Site Cleanup Program for the Former Grove Laundry, Monterey, California

Dear Mr. Niles:

Enclosed herewith please find the revised Corrective Action Plan ("CAP") for the above-referenced site. As agreed during the site inspection on November 17, 2009 with you, the Tamarind Group and its representatives have incorporated into the CAP those items which it promised would be addressed during the site inspection November 17, 2009, as well as those items outlined in Mr. Briggs' letter of December 31, 2009, and those comments and recommendations agreed upon during the telephone conference on May 20, 2010 between you, me and representatives of Tamarind Group.

Please note, RRM, Inc. has gone to great lengths to address each of the items discussed at the site inspection on November 17th as well as those items raised in Mr. Briggs' letter of December 31, 2009. In addition, the Tamarind Group has sought out cost estimates for the lifting of the McCoy residence and has transmitted these to you. Please be advised, the Tamarind Group has conducted due diligence regarding the cost estimates for the lifting of the McCoy residence. As part of its due diligence, it has obtained cost estimates for the lifting of the McCoy residence in order to be in a position to offer a "reimbursement" for the costs associated with Ms. McCoy contracting to have the McCoy residence lifted in order to complete portions of the proposed CAP. Pursuant to the terms of the Tamarind Group's agreement, and based on its due diligence, it is prepared to reimburse Ms. McCoy up to \$16,000.00 for the costs associated with the lifting and restoring (i.e., utility hook-ups) of her residence.

MUSICK, PEELER & GARRETT LLP
ATTORNEYS AT LAW

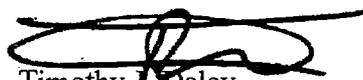
Mr. Dan Niles
July 19, 2010
Page 2

As you will note from RRM's CAP the successful completion of the remediation is contingent upon a number of representations by Ms. McCoy. These include, the understanding that Ms. McCoy will be responsible for securing the necessary permits, engineering and grading plan in order to effectuate the new foundation which she intends to have installed during RRM's remediation. In addition, RRM's CAP also assumes there will be cooperation and coordination with regard to the scheduling of all trades and work to be performed on site as well reasonable access in order to complete the work outlined in the enclosed CAP. Towards this end, I have suggested a pre-construction scheduling meeting between representatives of the Regional Water Board, Ms. McCoy's representatives and those of the Tamarind Group take place as soon as possible and certainly within the next 20 days.

Next, as we have discussed, the enclosed CAP is being submitted by my client with the understanding, that once the work contained in the CAP has been completed, the Water Board will require approximately two post remedial groundwater monitoring events in order to confirm the effectiveness of the cleanup. Once this has been verified, the Tamarind Group understands that staff recommendations of site closures will be made and secured in a reasonable time thereafter. In addition, it is also the Tamarind Group's and Mr. Gustafson's understanding, and although no agreement suspending the Board's Police powers has been entered into in advance of the clean up, the Board will take into consideration all of the underlying factors, costs and expenses incurred by Mr. Gustafson and the Tamarind Group and will consider the necessity for the imposition of any fines, sanctions or any pending civil penalties.

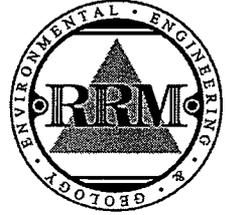
As such, my clients look forward to an amicable and expeditious resolution of this matter. Should this letter not comport with your understanding, please contact me immediately.

Very truly yours,



Timothy J. Daley
for MUSICK, PEELER & GARRETT LLP

TJD:bd
Encl.
cc: Clients
Matt Kaempf (Via E-mail)



July 19, 2010

Project Number IA 563

The Tamarind Group, Inc.

P.O. Box 1318

Pebble Beach, California 93953

Re: Revised Corrective Action Implementation Plan
Former Grove Laundry Site
164 and 166 12th Street
Pacific Grove, Monterey County, California

To Tamarind Group, Inc.:

This letter prepared by RRM, Inc. (RRM) presents a revised corrective action implementation plan for the referenced site. The revised implementation plan builds upon the implementation plan presented in RRM's submittal dated October 27, 2008, addresses comments made by the Central Coast Region Water Quality Control Board (RWQCB) in letters dated October 19, 2009 and December 31, 2009, and incorporates comments and recommendations agreed upon during a meeting on May 20, 2010 between representatives of the Tamarind Group and Mr. Dan Niles of the RWQCB. The Tamarind Group submits this corrective action implementation plan with the understanding that: 1) after completion of the work scope and two post remedial semi-annual groundwater sampling events, the RWQCB will seriously consider case closure; and 2) the RWQCB will give strong consideration to the necessity of leveling fines against the Tamarind Group.

In conjunction with the site remediation work contained herein, it is the RWQCB's understanding that the property owner of 164 12th Street ("Ms. McCoy") intends to install a new foundation for the house at the property. The remediation work outlined herein shall be complete within the scope of this revised CAP, and the Tamarind Group and Ms. McCoy are expected to work cooperatively with each other to insure timely completion of the scope of the work. We believe the scope of work outlined below will achieve the highest level of cleanup that is technically feasible, and addresses comments regarding the extent of excavation made by the RWQCB in their letter dated October 19, 2009.

With regard to economic feasibility, the scope of work outlined herein more than achieves what would be considered a positive and equitable economic tradeoff between cleanup and beneficial uses of water. In order to achieve the desired level of clean up, it is RRM's understanding that Ms. McCoy will be responsible for contracting with a house moving company that is licensed and insured to complete items 6 and 9 referenced below, and to secure in advance of RRM's work the required governmental permitting for the contemplated foundation work at her property. In addition, all time frames referenced herein are contingent upon a coordinated schedule with Ms. McCoy and her representatives to secure

permitting and to complete the foundation work she intends to undertake. It should be noted that there is separation with respect to the financial responsibility of proposed tasks between stakeholders the Tamarind Group and Ms. McCoy. The Tamarind Group will be financially responsible for soil remediation work proposed herein by RRM and the agreed upon costs associated with that portion of the lifting and re-setting of the McCoy house on a new foundation.

A brief background section is provided below, followed by the revised corrective action implementation plan.

BACKGROUND

Red Hills Environmental, Inc. (RHE) prepared a corrective action plan (CAP) for the site dated July 5, 2007. In their CAP, RHE proposed to excavate and dispose of impacted soils identified along the north end of the property at 166 12th Street and the southern end of the adjacent property at 164 12th Street (see Figure 2). A retaining wall separates the properties and supports soil at an elevation difference of approximately 6 feet. A house, located at 164 12th Street, is situated about 5 feet north of the retaining wall.

In this revised plan to execute the CAP, and unless stated otherwise, RRM intends to implement the following steps:

1. Obtain permits for earthwork and grading at 166 12th Street, and earthwork and grading at 164 12th Street from the City of Monterey Building Department for the soil remediation work described herein. It is RRM's understanding, and as such it is understood by the California Regional Water Quality Control Board (hereinafter the "Board"), that in advance of RRM being able to secure the necessary permits to effectuate this plan, Ms. McCoy and/or the property owners of 164 12th Street will be responsible for providing an engineered foundation design plan, acceptable to the City of Monterey Building Department, or other such governmental agency, which will enable RRM to obtain the earthwork and grading permits for this CAP. The property owners of 164 12th Street will also be responsible for any other permits necessary to lift and re-set the house on a new foundation and complete utility hookups.
2. Remove soil behind the retaining wall, remove portions of the retaining wall as necessary, and remove former trash enclosure and concrete slab. Debris will be disposed at Monterey Peninsula Landfill and Recycling Facility.
3. Clear the area between the house at 164 12th Street and approximately 18 feet south of the retaining wall location at 166 12th Street. Slope the elevation change at 166 12th Street to meet the grade at 164 12th Street.
4. Excavate and backfill the area between the house at 164 12th Street and the toe of the slope at 166 12th Street down to about 10 feet below ground surface (the interface of soil and bedrock). Excavated soil will be immediately loaded onto trucks and transported for disposal at Monterey Peninsula Landfill and Recycling Facility.

5. Implement a permitted slope stability, erosion, drainage, and compaction plan for the earthwork at 166 12th Street.
6. It is RRM's understanding that Ms. McCoy will be responsible for contracting a licensed and insured house moving contractor to lift the house at 164 12th Street to approximately 7 feet above grade, and for stabilizing the house using cradles and beams according to a certified and permitted engineering plan, which her contractor will provide. In addition the owners of 164 12th Street shall be responsible for disconnecting any and all utilities. The completion of the work referenced in Items 3, and 4 above, as well as the work listed in Items 7 and 8, are contingent upon Ms. McCoy undertaking the work referenced herein.
7. Clear the area under the lifted house at 164 12th Street and excavate soil down to approximately 10 feet below ground surface (bgs). Excavated soil will be immediately loaded onto trucks and transported for disposal at Monterey Peninsula Landfill and Recycling Facility.
8. Backfill the excavation pit according to a permitted grading plan for 164 12th Street. The grading plan will be consistent with the foundation plan to be obtained by property owners of 164 12th Street.
9. The house foundation work and any and all utility connections shall be the responsibility of the property owners of 164 12th Street.

To complete the work scope, RRM will contract with a licensed civil engineer to obtain a slope stability, erosion control, drainage, and compaction plan for the earthwork at 166 12th Street. The RRM team will work with the City of Monterey Building Department to obtain all the construction permits necessary to complete the scope of work that RRM is responsible for.

Regarding the property at 164 12th Street, Ms. McCoy will be responsible for securing, in a timely manner, plans and permits necessary to construct a new house foundation on her property. This includes any plans or permits for engineering or construction of the foundation, for improvements, or for engineering and earthwork associated with the new foundation. RRM will be responsible for placing and compacting the excavation backfill to original surface grade at minimum of 90% mean relative density. Additionally, Ms. McCoy will be responsible for contracting with a licensed and insured structural engineers or movers to lift and reset the house on the new foundation and reconnect any utilities and for coordinating this work with the Tamarind Group's representatives. These items are the responsibility of Ms. McCoy. Details of RRM's proposed scope of work are provided in the following section.

SCOPE OF WORK

Pre-field Activities. Prior to conducting any fieldwork, RRM will perform the following permitting and notification tasks: 1) obtain written permission from property owners and/or leaseholders to access 166 12th Street and 164 12th Street, 2) obtain permits to perform work, as required, from the City of Monterey Building Department as referenced in Item 1 above, 3) prior to beginning field work notify in writing all adjacent property owners or those whom may be affected or impacted by the site activities regarding scope of work, scheduling and contact information, 4) prepare a traffic control plan; 5) contact USA North a minimum of 48 hours prior to start of field activities to locate and mark underground utilities, and 6) notify RWQCB Staff at least 72 hours before conducting any site work.

Before earthwork and excavation begins, RRM will remove Well WW-1, and collect soil samples from borings for laboratory analyses. Data from removal of the well and analyses of soil samples will be used to obtain pre-acceptance for landfill disposal and confirm soil conditions prior to excavation work. The removal of Well WW-1 and nearby soil will quickly eliminate a potential exposure point, and add to the understanding of soil conditions. To gain pre-acceptance for landfill disposal, soil sample analytical data will be compared to current soil acceptance criteria for the Monterey Regional Waste Management District's landfill facility in Marina, California.

Soil samples will be collected from up to four direct-push soil borings installed inside the area proposed for excavation. Soil borings will be advanced to a maximum depth of approximately 10 feet below the existing surface grade of 164 12th Street. Up to four discrete soil samples will be collected from each boring; samples will be collected at evenly spaced intervals or at changes in lithology. At a minimum, borings will be placed in the area between Well WW-1 and the McCoy House, and in the area between the McCoy House and Boring GLS1. The discrete samples will be combined at the laboratory to form a four-in-one composite sample. Composite samples will be analyzed for total petroleum hydrocarbons (TPH) as gasoline (TPHg), diesel (TPHd), and motor oil (TPHmo); and for benzene, toluene, ethylbenzene and total xylenes. The current soil acceptance criteria for disposal at the Marina facility are less than 1,000 parts per million (ppm) TPHg, less than 5,000 ppm TPHd, and less than 5,000 ppm TPHmo.

Regarding removal of Well WW-1, RRM intends to excavate and remove the well casing and adjacent soil using hand tools such as picks, shovels, pikes, and post-hole diggers. During soil excavation, RRM Staff will make observations regarding the dimensions of the excavation, and if observed, the nature, location, and extent of separate phase hydrocarbons (SPH) and soil impact. Well removal and visual soil conditions will be documented via photographs. Soils in the immediate area of Well WW-1 will be excavated to depths between 2 feet bgs and 3 feet bgs. If encountered, flowing free-product will be removed by first mixing with a granular-type absorbent; details concerning the handling of SPH-affected materials are provided below in the section labeled SPH Removal. Excavated soils and well casing will be contained in properly marked 55-gallon drums and stored at 166 12th Street until landfill acceptance for disposal. The excavation cavity will be backfilled with three-sack sand slurry to approximately 12 inches from ground surface. The sand slurry will be capped with compacted native soil; conditions will be restored to those found at the time of well removal.

To safely and effectively perform the scope of work, a comprehensive site-specific health and safety plan (SSP) has been prepared. The SSP is included in Attachment C. This plan will include job-site monitoring and material handling procedures, as well as personal protective equipment requirements. The SSP will be reviewed and signed by all field personnel and kept on-site for the duration of the project. Additionally, tailgate safety meetings will be conducted each day before beginning work. All RRM personnel involved in conducting on-site activities will have completed Occupational Safety and Health Administration (OSHA) 40-Hour Hazardous Waste Operations and Emergency Response Training.

As mentioned above, prior to beginning any fieldwork, the RRM team will work with the City of Monterey Building Department to obtain permits for earthwork and grading at 166 12th Street, and for earthwork and grading at 164 12th Street. Among other things, it will be the responsibility of the property owners of 164

12th Street to obtain the permit for the house foundation upgrade at 164 12th Street. Once permits are in place, RRM will submit an implementation status report that will provide copies of the plans and permits, and a tentative work schedule to the RWQCB and all stakeholders.

Soil Excavation and Disposal. Soil excavation will be performed to remove affected soil between the area beneath the southern half of the house at 164 12th Street and approximately 18 feet south of the retaining wall location. The area targeted for excavation is shown on Figure 3. To gain access to the aforementioned area, work will begin by removing soil from behind the retaining wall located between 166 12th Street and 164 12th Street, and dismantling portions of the retaining wall. Retaining wall materials and excavated soil will be loaded onto end-dumps for immediate transport to the landfill. Data indicate that soil impact behind the retaining wall occurs anywhere from 4 feet bgs to 10 feet bgs (see data tables in Attachment A and Figure 3); therefore, soil excavated from behind the retaining wall will be targeted for landfill disposal. Initially, soil behind the retaining wall will be removed to bring the ground level at 166 12th Street down to the ground level at 164 12th Street. RRM intends to complete the aforementioned elevation change to approximately 18 feet south of the retaining wall location. From this point, the elevation difference between 166 12th Street and 164 12th Street will be sloped. To the extent possible, excavation will continue at 166 12th Street until the interface of soil and bedrock is reached. It is anticipated that Johns Excavating of Santa Rosa, California (Lic. # 361828) will perform the earthwork and excavation.

Regarding the limits of excavation at 166 12th Street, it is anticipated the sidewalk at the eastern boundary of the site and adjacent properties at the western boundary of the site will limit excavation. Along the western boundary, data for Boring SB-14 suggest some impacted soil may remain in place because of the aforementioned limitations. Soil data and the conceptual limits of the excavation at 166 12th Street are shown on Figure 3. Groundwater data are shown on Figure 4. The amount of residual mass left in place in soil and/or groundwater will be estimated using historical data and data obtained during the proposed scope of work. The residual mass estimate will be presented in the final soil excavation report.

Once excavation is complete, the excavation pit will be backfilled with control density fill (3-sack sand slurry) to about 5 feet from grade and imported fill thereafter to bring the elevation at 166 12th street up to that of 164 12th Street. The compaction and earthwork at 166 12th Street will be completed according to permitted plans and specifications completed by a licensed civil engineer, and will include provisions for potential drainage buildup in the area of the engineered fill. Subsequent to earthwork, a qualified and experienced mover of buildings and structures contracted by Ms. McCoy will be responsible for digging footings and place cribs at 164 12th Street and 166 12th Street. The cribs will be used to bear beams that will be used to support the house once it is lifted.

As provided above, RRM is relying on the property owners of 164 12th Street for contracting with a licensed and insured contractor who will be responsible for readying the house for lifting, lifting the house, foundation and improvement work, restoring all connections, resetting the house, and coordinating the schedule for the same with RRM. The qualified and experienced mover of buildings and structures, selected by Ms. McCoy, will complete the house lift and stabilization according to a permitted plan completed by certified structural engineer.

After the house is lifted and stabilized, the area under the house will be excavated to the bedrock interface, or depth feasible given conditions at the time of excavation. Excavated soil will be loaded onto end-dumps for immediate transport to the landfill. The excavation will be limited by the location and related integrity of the crib footings, the oak tree located west of the house, and the sidewalk located along the east side of the property. The following data characterize the likely limits of the proposed excavation considering physical limitations. West of the house, at Boring TG-3, TPHd was detected in soil samples from 5 feet bgs and 10 feet bgs at 180 ppm and 23 ppm, respectively; and TPHmo was detected at 390 ppm and 41 ppm, respectively. East of the house, at inclined Boring TG-6, TPHd was detected in soil samples from 4.5 feet bgs and 7 feet bgs at 48 ppm and 72 ppm, respectively; and TPHmo was detected at 80 ppm and 110 ppm, respectively. At Boring TG-10, 5.1 ppm TPHg and 120 ppm TPH as bunker oil were detected in a soil samples from 5.5 feet bgs. The garage structure north of the house would limit the excavation boundary to the north; however, data for borings TB-8 and GLS2, located between the house and the garage, suggest only the southern half the house footprint will need to be excavated. Soil and groundwater data are shown on Figures 3 and 4; the conceptual limits of the excavation are shown on Figure 3.

The excavation at 164 12th Street will be backfilled with control density fill to approximately 5 feet from grade, and imported fill thereafter to bring the elevation up to grade, pursuant to the McCoy's engineering/grading plan. Backfill and compaction will be completed to at least 90 percent or the specification provided in the permitted grading and compaction plan; and underground utilities will be reconnected at street disconnect points and brought to daylight as specified in the house foundation plan pursuant to the McCoy's engineer. The excavation will be compacted and graded according to any and all permit conditions provided by the McCoy's grading plan.

Assuming the excavation scenario described above, RRM estimates that up to 172 cubic yards of soil will be removed from behind the retaining wall, and 270 cubic yards will be removed by excavation of the remaining target area. During soil excavation, RRM staff will record the dimensions of the excavations, and if observed, the nature, location, and extent of separate phase hydrocarbons (SPH). Procedures for the potential handling SPH are described below.

Soil Disposal. RRM anticipates that the soil will be accepted for disposal at the Monterey Regional Waste Management District's Monterey Peninsula Landfill. In the event that the soil is not accepted for local disposal, it will be evaluated for disposal at alternative landfill locations such as Allied Waste Company's Newby Island Landfill (Class III) in Milpitas, California or Forward Landfill (Class II) in Manteca, California. It is anticipated excavated soil will be disposed under non-hazardous waste manifests.

SPH Removal. In the event that any type of SPH is encountered during sub-surface activities, it will be appropriately removed to the extent possible. Soil containing free SPH will be handled using a shovel or similar equipment and placed into 55-gallon open top steel drums. Full drums will be sealed and appropriately labeled. Flowing free-product will be removed by first mixing with a granular-type absorbent, and then handling as stated above for soil containing SPH. The drums will be initially staged at 166 12th Street and held for disposal at an appropriate landfill or waste recycling facility following completion of the work. Tools fouled with SPH will be steam cleaned within a 55-gallon drum to contain rinsate. Once

cleaning activities are completed, the contents of the drum will be removed with purge water generated during groundwater monitoring. Drums used to contain water will be properly recycled or disposed of at the landfill. It is recognized that for safety reasons, as the depth of the excavations increase, a loader bucket will be relied upon to distribute adsorbent, mix adsorbent, and retrieve the soil/adsorbent mix. In this case, material will be loaded with excavated dirt into end-dumps for transport to the landfill. In the event that flowing free-product is encountered at the bottom of the excavation at the soil bedrock interface the technique for its removal will be determined in the field based on actual field conditions including depth, accessibility and excavation stability.

Confirmation Soil Sampling and Laboratory Analyses. Confirmation soil samples will be collected from the bottom of the excavation pits according to a grid with 16-foot spacing, and/or at areas of concern. Areas of concern are defined as soil interfaces that may show signs of likely contamination such as discoloration, free moisture, changes in lithology, abandoned piping or equipment, or strong odor. Sidewall samples will also be collected at 16-foot intervals, and from noticeable areas of concern left in place due to lack of accessibility. RRM estimates that up to 8 bottom samples and 10 sidewall samples will be collected. RRM staff will record all sample locations on field data sheets, and record observations regarding soil types for the purpose of logging soils encountered during excavation. To collect soil samples, a new brass liner will be driven into an undisturbed section of soil until it is completely filled with soil. The liner containing the sample will then be removed and sealed using Teflon tape and plastic end-caps. The sample will then be appropriately labeled and placed into a chilled cooler. Following completion of the work, the samples will be transported under chain of custody to Accutest Laboratories, a State-certified lab, where they will be analyzed for TPHg and extractable range total petroleum hydrocarbons (C₉ to C₄₀ range fuel scan) using Federal Environmental Protection Agency (EPA) Method 8015M. The TPH-extractable fuel scan identifies hydrocarbons in the diesel range, motor oil range, mineral spirits range and kerosene range. Bunker oil is also noted in the analysis.

COMMENTS TO JANUARY 24, 2008 LETTER FROM RWQCB

The comments listed in the RWQCB letter dated January 24, 2008 are paraphrased below followed by a response. The responses are meant to elaborate on the stepwise remedial approach proposed by RRM, and provide the RWQCB with the requested information.

1. ***A copy of the engineering plan for structural support during excavations (i.e., for the 164 12th Street house) stamped by an appropriately licensed professional shall be submitted.***

The revised plan presented herein is predicated on the understanding that the owners of the house at 164 12th Street intend to construct a new foundation for the house, and obtain a compaction and grading plan for earthwork at 164 12th Street. RRM will contract with a licensed civil engineer to obtain a slope stability, erosion control, drainage, and compaction plan for the earthwork at 166 12th Street; and the RRM team will work with the City of Monterey Building Department to obtain all the construction permits necessary to complete the scope of work RRM is responsible for. Regarding the property at 164 12th Street, the RRM team will not be responsible for plans or permits necessary to construct a new house foundation. This includes any plans or permits for engineering or construction of the foundation, for improvements, or for engineering, earthwork, or compaction associated with the new foundation. Additionally, RRM will

not be responsible for contracting with structural engineers or movers to lift and reset the house on the new foundation and reconnect any utilities. Once permits are in place, RRM will submit an implementation status report that will provide copies of the plans and permits, and a tentative work schedule.

2. ***A copy of the slope stability plan that is approved by the City of Pacific Grove shall be submitted. The plan shall describe the surface water runoff control plan using Best Management Practices that ensure no erosion will occur. Eroded soil and storm water runoff shall not enter onto any neighboring properties.*** The RRM team will work with the City of Monterey Building Department to obtain permits for earthwork and grading at 166 12th Street. The plans will address slope stability, erosion control, drainage, and compaction. The property owner of 164 12th Street will be responsible for providing plans and obtaining permits for engineering, earthwork, or compaction associated with the new foundation. Once permits are in place, RRM will submit an implementation status report that will provide copies of the plans and permits, and a tentative work schedule.
3. ***A copy of your consultant's proof of liability insurance for the work on 164 12th Street shall be submitted.*** The proof of liability insurance is provided in Attachment B. RRM will explore the benefits of obtaining a rider to our policy to protect against liability associated with potential damage to the house at 164 12th Street.
4. ***Submit your plan to obtain access agreements or concurrence with the removal of the retaining wall from affected properties.*** Concurrence from affected properties regarding removal of the retaining wall and earthwork construction will be obtained using a two-stage process. First, RRM will notify the affected property owners and/or residents via written notice. The notice will outline the work scope and schedule and provide contact information. RRM will make every effort to accommodate affected parties. Second, RRM will obtain access agreements from property owners and/or leaseholders to perform work at 166 12th Street and 164 12th Street which may not unreasonable be withheld through contact, communication, and negotiation. We anticipate the RWQCB would aid in our effort should such be required.
5. ***Submit your plan to notify Central Coast Water Board Staff at least 72 hours prior to commencing excavation activities.*** First, RRM intends to submit an implementation status report that will provide copies of the plans and permits, and a tentative work schedule. Second, RRM will communicate routinely with the RWQCB via status calls and emails. Finally, RRM will call RWQCB staff and send an email at least 72 hours prior to commencing excavation activities in the field.
6. ***Submit a detailed description (figures and text) of the proposed excavation outline (i.e., length, width, depth, and location).*** The excavation dimensions are described above and shown on Figure 3.
7. ***Your plan if you encounter petroleum free product during field activities. We suggest you propose to remove it to the extent practicable, analyze it (for TPH as gasoline, diesel, bunker oil/heating oil, motor oil, and hydraulic oil using USEPA Method 8015 Modified),***

and, in addition estimating the volume of free product removed. If SPH is encountered, it will be mixed with oil absorbent to allow handling. A sample of the saturated oil absorbent will be collected and analyzed to characterize the composition of SPH. The sample will be analyzed using USEPA Method 8015 Modified to obtain a fuel scan that identifies TPH in the diesel range, mineral spirits range, kerosene range, bunker oil/heating oil range, motor oil range, and hydraulic oil range. To estimate the volume of free SPH removed during the excavation, the volume of saturated oil absorbent generated will be recorded. The volume of saturated oil absorbent and the absorbent oil concentration will be used to estimate the mass of SPH removed. The associated volume of SPH removed will be calculated using a density estimate for weathered bunker oil.

8. **Your plan if you encounter groundwater in the subsurface during the excavation remedial work. We suggest you treat and dispose of it properly according to local and state regulations. The plan should also propose sampling for constituents.** Given the range of depth to groundwater beneath 164 12th Street, the vertical limit of the excavation, and the time of year the excavation will likely occur, it is doubtful groundwater will be encountered. If groundwater is encountered, it will be removed via an electrical sump pump or gas powered sump pump. The pump intake would be set in a temporary sump, which would be installed in the pit to be dewatered and screened to filter gross particulate matter. The water removed from the pit would be transferred to storage located on the 166 12th Street property. Clearwater Environmental, Inc., or similar vendor, will be contracted to remove pit water for processing and disposal. Off-haul of groundwater will be documented via manifest. Regarding analyses of pit water, if encountered, RRM will sample the water using a plastic bailer, contain the sample in an appropriate EPA-specified container, label the sample container, note the sampling activity on a field data sheet, and transport the sample to the laboratory in a cooler with ice. The sample would be transported under chain of custody to Accutest Laboratories, a State-certified lab, where it would be analyzed for gasoline range total petroleum hydrocarbons (TPH_g) and extractable range total petroleum hydrocarbons (C₉ to C₄₀ range fuel scan) using EPA Method 8015M.
9. **Your plan on whether to expand the proposed excavation outline based on visual, instrument, and olfactory evidence you may encounter in the field (i.e., there are waste constituents remaining outside of your proposed excavation outline). Specifically describe the foreseeable limits to the excavation (164 12th Street residence and 12th Street itself).** As described above, the outline of the excavation will be limited toward the east by the sidewalk, toward the west by neighboring properties and the oak tree at 164 12th Street, and by crib supports used to elevate the house at 164 12th Street. To the extent that impact is encountered and there is no physical limitation that restricts access to the impact, RRM will make every effort to remove affected soil.
10. **Your proposed spacing of sidewall and bottom sampling for the excavation pit. At a minimum, we suggest you sample the sidewall every 20 feet, the bottom of the pit, and specifically at least one sample on the sidewall parallel to 12th Street to evaluate if TPH extends into the public right-of-way. Furthermore, you should propose to take additional**

sidewall samples, if necessary, based on visual of olfactory observations. RRM's plan for collecting samples is provided above in the section titled Scope of Work.

11. ***Your Decision whether you plan to characterize the subsurface under 12th Street (near the 164 12th Street property) prior to commencing the proposed remedial actions or concurrently with the proposed excavation.*** Soil impacts, if any, beneath 12th Street will be extrapolated from laboratory analytical results of confirmation soil samples collected along the eastern most sidewall of the proposed excavation. At the request of the RWQCB, these confirmation soil samples will be collected at a frequency of one per 8 linear feet or approximately twice the sidewall sampling frequency proposed in the previous section Confirmation Soil Sampling and Laboratory Analyses.
12. ***Any other proposed post-action soil and/or groundwater monitoring. We suggest you propose continued quarterly monitoring as well as confirmation soil samples, as necessary. Additionally, restate your plan to perform a biodegradation evaluation groundwater-monitoring event.*** Recommendations for post remedial groundwater monitoring will be provided in the report of findings for the work proposed herein; however, RRM is in agreement with the RWQCB opinion that two post remedial semi-annual groundwater sampling events may be adequate to establish consistency with closure guideline requirements. Reports will include analyte concentration versus time/distance trend analyses to ascertain whether analyte concentrations in groundwater are stable or declining.

Biodegradation Evaluation. Almost all petroleum hydrocarbons are biodegradable¹. During biodegradation, microorganisms obtain energy for life and reproduction by transferring electrons from donor compounds to acceptor compounds. This process results in the oxidation of the electron donor and reduction of the electron acceptor. Electron donors include petroleum hydrocarbons as well as other natural organic material. Elements or compounds that occur in a relatively oxidized state serve as electron acceptors. The most common electron acceptors in groundwater include dissolved oxygen, nitrate (NO₃⁻), ferric iron (Fe³⁺), sulfate (SO₄²⁻), and carbon dioxide. The rate of natural biodegradation is typically limited by a lack of electron acceptors, rather than a lack of nutrients.

During aerobic respiration, oxygen is reduced to water and carbon dioxide, and dissolved oxygen concentrations decrease. Under anaerobic conditions, one or all of the following may occur: nitrate is reduced (denitrification) and nitrate concentrations decrease; ferric iron is reduced and ferrous iron concentrations increase; sulfate is reduced and sulfate concentrations decrease; carbon dioxide is reduced and methane is formed (methanogenesis). During aerobic respiration and anaerobic reduction of nitrate, ferric iron, and sulfate, the total alkalinity (and thus pH) increases. Total alkalinity remains fairly constant when carbon dioxide reduction is dominant. Since dissolved oxygen must be removed from groundwater before nitrate reduction can occur,

¹ Norris, R. D., et al. 1993. *In-Situ Biodegradation of Ground Water and Geological Material: A Review of Technologies*. EPA/600/R-93/124, Robert S. Kerr Environmental Research Laboratory, July 1993

aerobic respiration occurs first, followed by denitrification, then ferric iron reduction, sulfate reduction and methanogenesis².

Evidence of biodegradation can be established using several methods. One way is to examine the change in petroleum hydrocarbon mass along a line that bisects the dissolved hydrocarbon plume core and is parallel with the groundwater flow direction. Another method involves looking for associations between dissolved hydrocarbon concentrations and concentrations of electron acceptors.

To assess biodegradation, groundwater samples will be analyzed for iron using EPA Method 6010B; ferrous iron using Standard Methods 18th Edition 3500-Fe-D; and nitrate and sulfate using EPA Method 300.0. In addition, dissolved oxygen (DO) and oxidation/reduction potential (ORP) will be measured at each well. DO will be measured using a YSI Model 55 DO meter and ORP using a Eutech Instruments ORP Testr 10. The instruments will be calibrated before use. The DO concentration will be measured before purging using a probe lowered into the well and ORP will be measured in groundwater from the first bailer volume collected during purging. Data analysis will include estimation of biodegradation rates using analyte concentration versus distance data, and graphical comparison of dissolved petroleum hydrocarbon concentrations with electron acceptor concentrations.

13. ***Restate your anticipated schedule for remediation and monitoring activities.*** After approval of the work proposed herein, we estimate it will take at least twelve weeks for planning, scheduling, permit acquisition, and acquisition of property access agreements. Upon acquisition of any necessary permits and the access agreements, an implementation status report will be submitted. The report will provide copies of the plans and permits and include a tentative work schedule. Given the nature of the proposed work, the schedule will be highly sensitive to wet weather.

RRM expects to receive analytical data for samples within three weeks of completing excavation activities. Once analytical data are received and accepted, report preparation will proceed. Data reduction, report preparation, report review, and report submittal should be completed within eight weeks of receiving the analytical data. Any change to the RWQCB-mandated monitoring schedule, or recommendations for other scheduled monitoring events, would either be put forward by the RWQCB or recommended in the report of findings for the work proposed herein and approved by the RWQCB. As such, there is no anticipated schedule for monitoring activities other than the existing groundwater monitoring schedule.

14. ***A remedial contingency plan for any waste left in soil or groundwater after implementation of the CAP. The contingency plan shall include a proposal for additional active remediation or justification for natural attenuation. This section in the Revised CAP work plan shall clearly explain post-remediation sampling in addition to alternative remedial options.*** As mentioned, RRM intends to evaluate the findings of the work proposed herein to reach a more informed decision regarding further activities. Similarly, it has been proposed that

² A dissolved oxygen concentration above approximately 0.5 milligram per liter is toxic to anaerobes that reduce nitrate.

Attachments:

- Figure 1 Site Location Map
- Figure 2 Site Map
- Figure 3 Soil Concentration Map
- Figure 4 Groundwater Concentration Map
- Attachment A Historical Data Tables
- Attachment B RRM Insurance Certificate
- Attachment C Site Specific Health and Safety Plan

data be collected to evaluate biodegradation. At this point it is premature to provide a remedial contingency plan, proposal for active remediation, justification for natural attenuation, or a plan for post-remediation sampling. As explained below, the report of findings will include a reassessment of possible approaches for further active remediation and natural attenuation. Please note that RRM firmly believes that any active remedial approach relies on natural attenuation to efficiently and cost-effectively achieve remediation goals. The changeover from active remediation to natural attenuation is appropriate at the point where the effects of active remediation are indiscernible from the effects of natural attenuation.

15. **Specifics regarding what the Corrective Action Report will contain.** The report will be comprised of the following sections: a background section, scope of work, findings section, site conceptual model, data gap section, a revised remedial alternative identification and feasibility study section, and a recommendations section.

If you have any questions regarding this letter, please call RRM, Inc. at (831) 475-8141.

Sincerely,
RRM, Inc.


R. L. Giattino
Senior Engineer


Matthew Paulus
Project Geologist, PG 8193

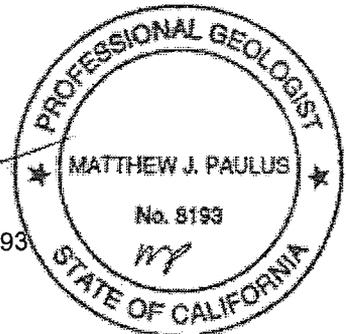


EXHIBIT E



California Regional Water Quality Control Board

Central Coast Region



Linda S. Adams
Secretary for
Environmental Protection

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Arnold Schwarzenegger
Governor

August 10, 2010

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Mr. Thomas and Ms. Leslie DiMaggio
3188 Susan Avenue
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Mr. Galen Blackwell
857 Grove Acres
Pacific Grove, CA 93950

Dear Responsible Parties:

SITE CLEANUP PROGRAM: FORMER GROVE LAUNDRY SITE, 472 LIGHTHOUSE AVENUE AND 166 12TH STREET, PACIFIC GROVE, MONTEREY COUNTY – CONCURRENCE WITH REVISED CORRECTIVE ACTION PLAN

Central Coast Regional Water Quality Control Board (Water Board) staff reviewed the "Revised Corrective Action Implementation Plan" dated July 19, 2010 (herein after referred to as the "**July CAP**"), submitted by RRM, environmental consultant for Mr. Douglas Gustafson, the responsible party for cleanup on behalf of the Tamarind Group. Water Board staff also reviewed the cover letter to the July CAP dated July 19, 2010, and submitted by Mr. Timothy Daily, counsel to the responsible party. Water Board staff concurs with the scope of work included in the July CAP and the contents of the cover letter. The July CAP complies with the provisions of Cleanup and Abatement Order (CAO) Order No. R3-2006-0016 and No. R3-2006-0016A for cleanup up of pollutants to background concentrations. Two key elements of the July CAP scheduled for this dry season are soil characterization work and abatement of the feature known as "WW-1." These two elements are necessary interim steps toward overall cleanup and are deemed time critical for the 2010 dry season. As such, Water Board staff addresses the interim steps immediately below.

Water Board Staff Requirements

To further define the extent of hydrocarbon impacted soil and to abate free phase petroleum hydrocarbons, Water Board staff requires you to implement the interim measures in the July CAP (i.e., further characterization of soil conditions along the southern portion of Ms. Cece McCoy's residence, and abatement of "WW-1," a former sump riser containing free petroleum hydrocarbons). Provided parties can complete a timely access, you are required to complete the interim measures not later than **October 29, 2010**, to be in compliance with CAO No. R3-2006-0016 and CAO No. R3-2006-0016A. In conversations between Mr. John Robertson of my staff and Ms. McCoy's counsel, Ms. Kathleen Clack, Ms. Clack assured Mr. Robertson that access to

California Environmental Protection Agency

Ms. McCoy's property for further characterization and abatement work would not be problematic. Please notify Water Board staff 72 hours prior to beginning field activities to complete the interim measures.

July CAP

The July CAP incorporates a proposed scope change covered during a November 17, 2009 Water Board staff inspection of the Grove Laundry site and adjacent property owned by Ms. McCoy. Water Board staff's discussions among involved parties included Ms. McCoy (property owner adjacent to the former Grove Laundry site), the responsible party, and their technical representatives; and Ms. McCoy's counsel. The proposed changes to the scope of work are outlined in Water Board staff's December 31, 2009 letter (Attachment 1), wherein staff also anticipated completion of remedial activities during the 2010 dry season.

The proposed scope change reflects removing potential pollutants under Ms. McCoy residence. However, as Water Board staff noted above, prior to consideration of pollutant removal from beneath the residence, Mr. Gustafson proposes to further delineate the extent and concentrations of any petroleum hydrocarbons immediately adjacent to and/or beneath the residence. The July CAP addresses conditions outlined in Water Board staff's December 31, 2009 letter, and proposes further characterization of soil conditions along the southern portion of the residence prior to excavation activities, and abatement of "WW-1," a former sump riser containing free petroleum hydrocarbons. As noted above, Water Board staff concurs with the scope of work provided in the July CAP provided that the characterization and interim remediation work are completed first. We understand that Ms. McCoy may have additional comments on the July CAP and we will forward those comments as soon as we receive them.

October CAP

In a letter dated October 19, 2009 (Attachment 2), Water Board staff conditionally approved another "Revised Corrective Action Plan Addendum" dated October 27, 2008 (hereinafter referred to as the "October CAP"), submitted by RRM on behalf of the responsible party. In the October CAP, RRM proposes removing petroleum hydrocarbon impacted without lifting/moving Ms. McCoy's residence. The conditions for approval detailed in Water Board staff's letter remain unchanged and will need to be met if Mr. Gustafson implements the proposed scope of work included in the October CAP.

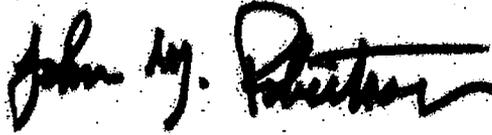
Summary

The scopes of work included in the July CAP and October CAP are both acceptable with the requirements and conditions noted in our letters for each cleanup alternative. Water Board staff members believe an effective and timely clean up serves all parties by minimizing costs and disruption, but in this case the Water Board staff cannot specify the method of compliance in achieving cleanup. As such, Water Board staff encourages the involved parties to coordinate their respective interests toward implementing either of the two corrective action proposals.

August 10, 2010

In you have any questions, please contact Dan Niles at (805) 549-3355 or Thea Tryon at (805) 542-4776.

Sincerely,



for Roger W. Briggs
Executive Officer

Attachment 1: Water Board staff's December 31, 2009 letter
Attachment 2: Water Board staff's October 19, 2009 letter

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cc:

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Revised Corrective Action Plan

4

August 10, 2010

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EXHIBIT F



California Regional Water Quality Control Board

Central Coast Region



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Arnold Schwarzenegger
Governor

COPY

November 22, 2006

Mr. Douglas Gustafson
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Mr. Gary Blackwell
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Mr. Galen Blackwell
857 Grove Acres
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Mr. Thomas and Ms. Leslie DiMaggio
3188 Susan Avenue
Marina, CA 93933

Dear Responsible Parties:

SLIC: FORMER GROVE LAUNDRY SITE, 472 LIGHTHOUSE AVENUE AND 166 12TH STREET, PACIFIC GROVE, MONTEREY COUNTY – UPDATE AND CLARIFICATION OF CLEANUP OR ABATEMENT ORDER NO. R3-2006-0016 AND TRANSMITTAL OF CAO NO. R3-2006-0016A

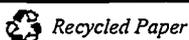
The Central Coast Regional Water Quality Control Board (Central Coast Water Board) has received several letters and contacts questioning which parties should be appropriately named in Cleanup or Abatement Order No. R3-2006-0016 (Order). Central Coast Water Board issued the Order on May 31, 2006 in draft form, for comment, and issued the final Order on July 19, 2006.

On June 13, 2006, Mr. Mark Hudak submitted a letter on behalf of CTE Properties (see Attachment 1). Mr. Hudak's letter stated that there is no evidence of any contamination past or present originating from the parcels previously owned by CTE Properties [APN 006-199-012 ("parcel 12") and APN 006-199-015 ("parcel 15")], now currently owned by Dr. and Ms. Cedolini, and argued that the Central Coast Water Board should not name CTE Properties as a responsible party in the Order. Because we found no evidence of a source of contamination (i.e., sumps) on parcel 12 or 15, we did not name CTE Properties or Dr. and Ms. Cedolini in the final Order.

On August 18, 2006, Mr. Gustafson spoke with Ms. Soderberg of my staff regarding the Order. Mr. Gustafson believes that the Central Coast Water Board should name CTE Properties in the Order. Mr. Gustafson offered to submit documents to show that a source of contamination was on parcels 12 and/or 15. However, the Central Coast Water Board files already contained all of the documents Mr. Gustafson submitted, and we previously considered these documents in naming responsible parties in the Order.

On August 18, 2006, Ms. Anne Michaels submitted a letter on behalf of the Blackwell family (see Attachment 2). The letter informed the Central Coast Water Board that Ms. Marie Blackwell is deceased. In addition, Ms. Michaels stated that we should not consider Mr. Galen Blackwell and Mr. Gary Blackwell responsible parties because Mr.

California Environmental Protection Agency



Galen Blackwell has signed an indemnification agreement with Mr. Douglas Gustafson and Mr. Gary Blackwell has filed bankruptcy.

The Central Coast Water Board agrees to remove Ms. Marie Blackwell from the Order. However, we will not remove Mr. Galen Blackwell from the Order since California Water Code section 13304 imposes cleanup liability on any person who has caused or permitted a discharge.¹ Third-party indemnification agreements are not binding on the Water Board and do not limit our jurisdiction. Although Mr. Gary Blackwell is bankrupt, an order requiring a discharger to take any action that ends or ameliorates current pollution is not a "claim" that can be discharged in bankruptcy.² Consequently, we continue to name Mr. Gary Blackwell in the Order. We are amending the Order to remove Mr. Gary Blackwell's liability for Water Board oversight costs, since monetary claims for oversight costs were discharged in the bankruptcy.

On September 7, 2006, Ms. Kathleen Clack, attorney for Ms. McCoy, spoke with Ms. Soderberg of my staff regarding the responsible parties named in the Order. Ms. Clack indicated that there was evidence from the trial that contamination had originated on parcels 12 and/or 15, so the Central Coast Water Board should name CTE Properties and Dr. and Ms. Cedolini in the Order. Ms. Clack submitted documents via email on September 14, 2006, and a video of the basement excavation on September 20, 2006. The video documented the removal of soil from a basement under the existing Grove Laundry Building on parcel 12. The documents included Kleinfelder's September 12, 2006 *Opinion Letter on Placement of Fill and Construction Debris on 166 12th Street* (Attachment 3) and invoices from the Don Chapin Company for the soil excavation on parcels 14 and 15 in 1993. The invoices indicate the Don Chapin Company did not fill the excavation pit. CTE Properties used the soil excavated from under the Grove Building to backfill the excavation pit on parcels 14 and 15. Figure 8 in WaterWork's Environmental Assessment Report shows oil-contaminated soil extending underneath the building on parcel 12. WaterWork based this conclusion on both visual and analytical information. Kleinfelder believes this information identifies an additional source of oil-contaminated soil on parcel 14, and the potentially improperly compacted soil may exacerbate the conditions of nuisance seen on the McCoy property.

Water Board staff has reviewed all recently submitted documents (including videos). In addition, Water Board staff discussed the excavation with the County Environmental Health Department's caseworker, Cory Welch, on September 29, 2006, and on October 2, 2006. The video did not document any source or sump located under the Grove Building on parcel 12. Furthermore, potentially contaminated soil that was removed may or may not have been disposed of onto parcel 14 or 15. The video also

¹ The State Water Resources Control Board and the California Attorney General have long taken the position that landowners are "dischargers" for purposes of cleanup orders under Section 13304. See, *Spitzer*, State Water Board Order No. WQ 89-8; *Schmidl*, State Water Board Order No. WQ 89-1, and orders cited therein; *United States Department of Agriculture, Forest Service*, State Water Board Order No. WQ 87-5; *Southern California Edison*, State Water Board Order No. WQ 86-11; *Zoecon*, State Water Board Order No. WQ 86-2; 26 Ops.Cal.Atty.Gen. 88, 90-91 (1955); 27 Ops.Cal.Atty.Gen. 182 (1956); 63 Ops.Cal.Atty. Gen. 51 (1979).

² *In re Chateaugay Corp.*, 944 F. 2d 997, 34 ERC 1233 (2d Cir. 1991); *In re Torwico Electronics, Inc.* 8 F.3d 146 (3d Cir. 1993), cert. den. sub nom *Torwico Electronics, Inc. v. NJDEPE*, 511 U.S. 1046 (1994).

documented some soil leaving the site. At this time, there is not enough evidence to determine that the potentially contaminated backfill (from parcel 12) constituted another "source" of pollution or to conclude that we should name CTE Properties in the Order.

After careful review of the file, new information included in documents and videos, and discussions with the Monterey County Environmental Health, the Central Coast Water Board will not name CTE Properties or Dr. and Ms. Cedolini in the Order. We have attached a new order, Order No. R3-2006-0016A (see Attachment 4), revising certain findings and orders in Order No. R3-2006-0016.

If we receive further evidence that suggests that either CTE Properties or the Cedolinis should be named as responsible parties, we reserve the right to revise Order No. R3-2006-0016 or Order No. R3-2006-0016A or issue a new order to name additional parties.

On October 2, 2006, Mr. Steve Krcik, a consultant for Mr. Gustafson, spoke with Ms. Soderberg of my staff regarding the requirements of our Order No. R3-2006-0016. Ms. Soderberg requested Mr. Krcik send us a proposed schedule of completion for the required tasks. Mr. Krcik sent an email on October 3, 2006, outlining the proposed tasks and the associated schedule for completion (see Attachment 5). In addition, Water Board staff discussed some details of the email with Mr. Krcik on October 6, 2006.

After reviewing Mr. Krcik's tentative implementation schedule and discussing the details with him, we will not pursue enforcement action if you comply with the following requirements by the specified dates:

1. By **February 16, 2007**, Dischargers shall implement interim measures to abate the nuisance condition from separate-phase petroleum hydrocarbons in groundwater and surface water on the McCoy property. Dischargers shall submit a work plan proposing the interim measures to this office by **January 8, 2007**.
 - a) We suggest you propose limited excavation of shallow contaminated soil on the McCoy property, especially the area between the house and the retaining wall. In addition, we suggest you evaluate the potential of using the existing "monitoring well" near the retaining wall for extraction of groundwater. If you extract groundwater with TPH, you must treat it and properly dispose of it or discharge it under appropriate permits.
 - b) The method chosen must ensure no damage will occur to site structures including the retaining wall, the house, or the house foundation on the McCoy property.
2. Dischargers shall submit a work plan to investigate the vertical and lateral extent of TPH in soil and groundwater that has migrated off of the former Grove Laundry property by **January 8, 2007**:
 - a) Dischargers shall install at least six exploratory borings and drill the borings to bedrock (approximately 10 feet below ground surface).

- b) Dischargers shall place at least three borings to the east of 12th Street to determine the extent of pollution. Dischargers shall place at least one boring between the property and MW-3 since soil from MW-3's boring contained TPH.
 - c) Dischargers shall collect soil samples for lithological identification at a minimum of five-foot intervals. From each boring, Dischargers shall analyze at least two soil samples (based on visual/olfactory field observations) for TPH as gasoline, as diesel, as motor oil, as bunker oil/heating oil, and as hydraulic oil using US EPA Method 8015 Modified.
 - c) Dischargers shall collect one grab groundwater sample from each boring and analyze the groundwater samples from each boring for TPH as gasoline, as diesel, as motor oil, as bunker oil/heating oil, and as hydraulic oil using US EPA Method 8015 Modified.
 - d) Dischargers shall notify Water Board staff of impending field activities at least 72 hours prior to doing work.
3. Dischargers shall submit a report documenting the results of assessment required under item 2 above within **75 days** after receiving Central Coast Water Board concurrence to implement the work plan.
 4. Dischargers shall submit a comprehensive Corrective Action Plan (CAP), which includes a feasibility analysis of the chosen remedial method, that adequately addresses all soil and pollution by **June 15, 2007** as described below:
 - a) The feasibility analysis and CAP must consider State Water Resources Control Board Resolution No. 92-49, which provides that the goal for groundwater cleanup is to remove pollutants to background levels. If the Dischargers propose a less stringent cleanup level, the Dischargers must demonstrate that it is not technologically and economically achievable to clean up to background, but still protect current and designated beneficial uses of groundwater, not pose a threat to human health and safety, and provide the maximum benefit to the people of the state.
 - b) We suggest the Dischargers consider excavation, in-situ bioremediation, or chemical remediation methods.
 - c) If the Dischargers' evaluation concludes that peat moss is the selected remedial method, the Dischargers must:
 - Demonstrate that it will be as effective as excavation.
 - Provide details on the proposed soil borings, including: number, size (depth and diameter), and locations where peat moss will be located. Provide a map showing the boring locations.
 - Compact boreholes to geotechnical standards.
 - d) The CAP must include a proposed schedule, and details on post action monitoring, demonstrating effectiveness of remedial activities. For example, Dischargers should propose sidewall samples from excavation pits and/or soil

and groundwater samples after bioremediation or chemical remediation activities.

- e) Remedial actions shall not damage or compromise property structures such as the retaining wall and house located on the McCoy property. All site features on the McCoy property must be returned to their original condition (i.e. brick walkways, concrete driveway, etc.). The Central Coast Water Board may require the Dischargers to post a surety bond to repair any damages resulting from the corrective actions to the McCoy structure(s).
5. Dischargers shall monitor groundwater and submit groundwater-monitoring reports according to Monitoring and Reporting Program No. R3-2003-0110. Your next monitoring report is due **January 20, 2007**.

If you do not comply with the requirements and due dates outlined above, we reserve the right to take any enforcement actions allowed by law, including imposition of civil liability based on the original due dates identified in Order No. R3-2006-0016.

If you have any questions, please contact **Karyn Steckling at (805) 542-4642** or Sheila Soderberg at (805) 549-3592.

Sincerely,



 Roger Briggs
Executive Officer

S:\SLIC\Regulated Sites\Monterey Co\Pacific Grove\472 Lighthouse - Grove Laundry\RPs named in CAO 11.06.doc

- Attachments: 1. Mr. Mark Hudak's June 13, 2006 letter (without attachments)
2. Ms. Anne Michael's August 18, 2006 letter (without attachments)
3. Kleinfelder's September 12, 2006 *Opinion Letter on Placement of Fill and Construction Debris on 166 12th Street*
4. Cleanup or Abatement Order No. R3-2006-0016A
5. Mr. Krcik's October 3, 2006 email

cc:

CTE Properties c/o Mr. Mark Hudak, Carr, McClellan, Ingersoll, Thompson, & Horn
Dr. Tony and Ms. Clair Cedolini
Ms. Lori Okun, SWRCB-OCC
Mr. Cory Welch, Monterey County Health Department
Mr. Matt Bogoshian, Deputy District Attorney
Mr. Steve Krcik, Red Hill Environmental, Inc.
Ms. Kathleen Clack, Law Offices of Kathleen Clack
Mr. Michael Burns, MACTEC Engineering and Consulting
Ms. Barbara May, Bohnen, Rosenthal & Dusenbury
Mr. John Joyce, Attorney at Law
Ms. Virginia Howard, Fenton & Keller

California Environmental Protection Agency

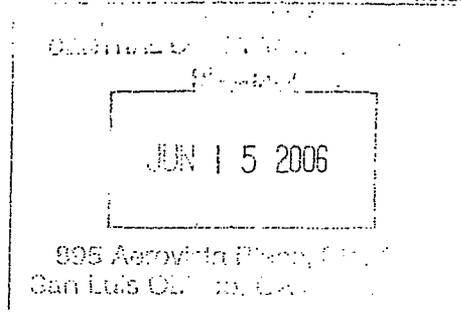
CARR McCLELLAN
INGERSOLL THOMPSON & HORN

Professional Law Corporation

CELEBRATING 60 YEARS

Mark D. Hudak

mhudak@carr-mcclellan.com



June 13, 2006

Roger Briggs
Executive Officer
Central Coast regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401

Re: 472 Lighthouse Avenue, Pacific Grove
Draft Abatement Order RB3-2006-0016

Dear Mr. Briggs:

Our office represents CTE Properties, Inc. ("CTE"). I received your letter of May 31, 2006 and the draft Abatement Order (the "Order") enclosed with it. Your letter requests that, if any party believes it should not be included as a Responsible Party in the Order, relevant information should be provided within 15 days. Because CTE is not responsible for any discharge on the subject properties, it should not be included as a Responsible Party in this Order.

FACTUAL BACKGROUND

This matter involves three properties: a residential property located at 164 12th Street, a vacant lot bearing an A.P.N. 006-199-014 and commonly known as 166 12th Street, and two parcels designated as A.P.N. 006-199-012 and A.P.N. 006-199-015 and commonly known as 472 Lighthouse Avenue. I am enclosing a parcel map with notations showing the physical relationship of these properties. On this map, Parcels A and C comprise the current 472 Lighthouse property, Parcel B is the 166 12th Street property, and Parcels 12 and 14 are the 164 12th Street property.

164 12th Street is owned by the McCoy Trust. 166 12th Street is owned by M. Douglas Gustafson. The two parcels that now comprise 472 Lighthouse were purchased by CTE in 1994 and sold to Anthony and Clair Cedolini in 2005.

Based on historical records, we understand that soil on the 166 12th Street parcel was contaminated by fuel oil released during the operation of the Grove Laundry facility, which used

to occupy this property. Partial remediation was performed in 1988. In 1993, an extensive quantity of soil was removed from the 166 12th Street parcel and replaced with clean fill. The Monterey County Department of Health was satisfied with the remediation effort on the 166 12th Street property and, on November 8, 1993, issued a "no further action" letter with regard to this property.

At the time of the remediation in 1993, it was known that petroleum had migrated from 166 12th Street to the McCoy's property at 164 12th Street and under 12th Street itself. The Department of Health deemed it impractical to perform remediation on the 164 12th Street property due to the residence that occupies most of the lot.

Because no remediation was performed on that property in 1993, significant amounts of contamination remain on it. The Trustee of the McCoy Trust has filed a civil suit seeking damages for the failure to remediate the 164 12th Street property.

Little testing has been done on the 166 12th Street property since the remediation effort was completed in 1993. Test borings performed by D. A. Cook indicate low level amounts of gasoline and motor oil in the soil on 166 12th Street. These detections are at a depth of 4-6.5 feet, which would appear to be within the fill that was placed after excavation in 1993. The contamination on 164 12th Street is primarily fuel oil and/or bunker oil, so there is no apparent correlation between the recent test results on 166 12th Street and the pre-existing contamination on 164 12th Street.

CTE IS NOT A RESPONSIBLE PARTY

There is no legal or factual basis for designating CTE as a Responsible Party in the proposed Order.

First, there is no evidence of current contamination on A.P.N. 006-199-012 or 006-199-015 and no reason to believe that these parcels are contributing to the existing contamination on the McCoy property at 164 12th Street. Nor is there any evidence that there ever was a discharge on them in the past or that any of the contamination on the 164 12th Street property originated from the parcels owned by CTE.

Second, the properties acquired by CTE do not adjoin the 164 12th Street property at any point.

Third, after CTE acquired its properties in 1994, it undertook an extensive renovation of the historic building and converted it to office/retail use. Part of the renovation involved removing the soil beneath the building down to bedrock so that a functional basement could be installed. The excavated soil was tested and accepted for use in several public projects. If there had been any contamination on this property, it would have been detected in 1994-1995.

Fourth, after the renovation was completed, CTE leased its property to Homescapes, Inc. This company was in the business of selling home furnishings and plants. Its operations did not

Roger Briggs
June 13, 2006
Page 3

involve the use of petroleum products such as fuel oil or bunker oil. There is no reason to think that there was any discharge of petroleum products from CTE's properties during Homescapes' tenancy.

Fifth, and most important, CTE does not own, and never did own, the 166 12th Street property that was the source of contamination now found on 164 12th Street.

Neither CTE nor its lessee ever discharged any petroleum products onto the soils of any of the subject properties or into the groundwater beneath them. CTE has never owned any property on which a discharge occurred.

Despite careful research, I am not aware of any statute or legal principle that would require the owner of uncontaminated property to participate in a remediation effort.

In summary, there is no legal or factual basis for including CTE as a Responsible Party in this Order. Although I do not represent them, the Cedolinis appear to be in the same position as CTE and there is no apparent basis for including them as Responsible Parties, either.

Please review our position carefully and let me know whether you agree that CTE and the Cedolinis should be removed from the Order. If you do believe that there is a basis for continuing to include them as Responsible Parties, please let me know before finalizing the Order so that I can provide final comments.

If you have any questions regarding our position, please contact me.

Sincerely,



Mark D. Hudak

MDH:os

cc: Client
Anthony and Clair Cedolini

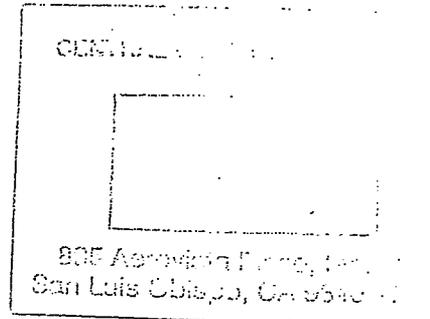
JOHNEN, ROSENTHAL & DUSENBURY
AN ASSOCIATION OF LAW PARTNERSHIPS

THOMAS P. BOINEN
ROBERT E. ROSENTHAL
DOUGLAS K. DUSENBURY
ROGER D. BOLGARD
ANNE M. MICHAELS

787 MUNRAS AVENUE
SUITE 200
POST OFFICE BOX 1111
MONTEREY, CALIFORNIA 93942
TELEPHONE (831) 649-5551
FACSIMILE (831) 649-0272

August 18, 2006

Roger W. Briggs Executive Officer
CALIFORNIA REGIONAL WATER
QUALITY CONTROL BOARD
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401-7906



Re: Former Grove Laundry Site, 472 Lighthouse Avenue
and 166 12th Street, Pacific Grove, Monterey, California;
Transmittal of Cleanup or Abatement Order R3-2006-0016

Dear Mr. Briggs:

Thank you for your July 19, 2006 letter concerning the above-referenced matter.

The purpose of this correspondence is to update the Regional Water Quality Control Board's records and files.

First, we wish to advise that Marie Blackwell, one of the addressees on your July 19, 2006 correspondence, is deceased and should be removed as an addressee. Mr. Gary Blackwell, also listed as an addressee, filed bankruptcy some time ago and, thus, we understand him to be subject to the applicable automatic stay provisions set forth in the Bankruptcy Code.

Second, with respect to Mr. Galen Blackwell, we wish to advise that the Superior Court of California, County of Monterey, in case number M58994, issued an order on June 12, 2006 validating an indemnity agreement between responsible party M. Douglas Gustafson and responsible party Galen Blackwell and specifically ordered that Mr. M. Douglas Gustafson is legally responsible to "hold harmless, defend and fully indemnify (Galen) Blackwell, from all loss incurred related to the condition of the soil or property of the Grove Laundry site."

For your purposes, we are enclosing:

- 1) A copy of the April 13, 2005 Cross-complaint for Declaratory Relief and Indemnity, as filed by Galen Blackwell, individually and as partner of Grove Laundry, against M. Douglas Gustafson, individually and M. Douglas Gustafson and Company, Inc.;
- 2) A copy of the Mutual Release in Full of All Claims and Rights, as executed by M. Douglas Gustafson and Galen Blackwell on or about November 30, 1993; and
- 3) An endorsed filed copy of the Ruling of The Honorable Michael S. Fields, which ruling was issued following the granting of Galen Blackwell's Motion for Summary Judgment against Mr. Gustafson regarding Mr. Gustafson's indemnity obligations.

Judge Fields' June 12, 2006 order states, in pertinent part:

MUTUAL RELEASE

It is undisputed that Defendants Gustafson and Blackwell entered into a mutual release in an earlier lawsuit [M22328]. The language contained therein appears unambiguous and clear on its face. Each party acknowledged he had an opportunity to consult an attorney prior to signing. Gustafson agreed to "hold harmless, defend and fully indemnify Blackwell, from all loss incurred related to "condition of the soil or property of the Grove Laundry Site." The motion [of Blackwell for Summary Judgment] is granted.

Additionally, we wish to advise that the case of Edward H. and Margaret E. McCoyboth, now deceased, against M. Douglas Gustafson and others, concluded in a Judgment for Nonsuit in favor of Galen Blackwell on the ground that the McCoy plaintiffs (owners of adjacent property located at 164 - 12th Street, Pacific Grove, California), could not prevail as a matter of law against Galen Blackwell due to the applicable statutes of limitations. For your files, a copy of The Honorable Michael S. Fields' August 4, 2006 Order Granting Motion for Judgment of Nonsuit in favor of defendant Galen Blackwell and against plaintiff McCoy is enclosed.

Based upon the indemnity agreement executed by and between Mr. Gustafson and Mr. Blackwell, the Monterey County Superior Court's ruling that said agreement is valid, enforceable and obligates Mr. Gustafson to defend and indemnify Mr. Blackwell, and Mr. Blackwell's success in prevailing in the recent jury trial brought by the McCoys, we respectfully request that Mr. Blackwell's name be removed from your files as a responsible party in this action. Pursuant to the indemnity agreement between Mr. Gustafson and Mr. Blackwell, and by order of the Superior Court, Mr. Gustafson and Mr. Gustafson alone is responsible for complying with the cleanup and abatement order R3-2006-0016.

We thank you kindly for your professional courtesy concerning this request.

Very truly yours,

BOHNEN, ROSENTHAL & DUSENBURY



ANNE M. MICHAELS

Enclosures

cc: Client w/encl.
John R. Joyce, counsel on behalf of M. Douglas Gustafson w/encl.



KLEINFELDER

We employ the best people.

September 12, 2006

Project: 56201-1

Ms. Kathy Clack
5200 North Palm Avenue, Suite 408
Fresno, California 93704-2225

Ms. Cecelia McCoy
164 12th Street
Pacific Grove, California 93950-2748

**Subject: Opinion Letter on Placement of Fill and
Construction Debris on 166 12th Street Parcel
Former Grove Laundry Project
Pacific Grove, California**

Dear Ms. McCoy:

Kleinfelder, Inc. is pleased to provide our opinion letter on placement of fill and construction debris on 166 12th Street Parcel, located immediately south and up-gradient of your residence at 164 12th Street, both in Pacific Grove, California.

UNDERSTANDING OF FILL SOURCE

During the July 2006 trial, testimony revealed that fill from an area excavated in December 1993/January 1994 and located beneath the current 472 Lighthouse Avenue building was placed on the 166 12th Street parcel, located immediately up-gradient and adjacent to the McCoy home, and extended for an unknown distance onto the 472 Lighthouse Avenue parcel. The excavated area included the area sampled by WaterWork in 1990 as Sample Location # 15. We further understand that the fill included soil, concrete, rebar, and construction debris.

DISCUSSION AND CONCLUSIONS

Issues that arise from the placement of the above-described fill are discussed below.

- 1 Use of fill with debris typically results in a fill that has not been properly compacted. This can result in voids, open spaces, and channeling that can greatly increase the overall permeability of the fill. Consequently, when winter rains raise the groundwater level, the groundwater, and any contamination migrating along with the groundwater, preferentially flows through those voids and channels.

This may lead to re-distributing the contamination throughout the filled and adjacent areas as well as moving contamination to unexpected and previously uncontaminated locations. In addition, the presence of voids and channels can result in accelerated flow velocities of the water that can cause erosion of the fill, creating additional and/or larger uncontrolled channels.

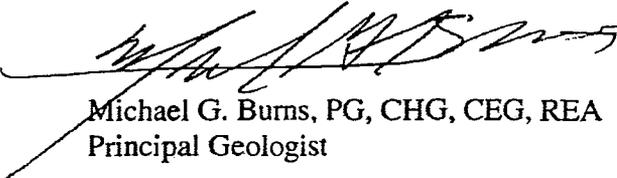
- 2 The movement of the fill/debris described above, has implications for the contaminated soil in the area of WaterWork Sample #15. As shown on Figure 8 in WaterWork's report, WaterWork documented that visual observations and soil analytical testing results indicated that contaminated soil extended from the 166 12th Street parcel westward to at least as far west as the location of Sample #15. The dashed line located further west of Sample Location #15 indicates that WaterWork concluded that soil contamination extended an unknown distance beneath the location of the currently existing 472 Lighthouse Avenue building. As revealed during the trial, this unknown extent of contaminated soil was excavated in December 1993/January 1994 and moved to the 166 12th Street parcel immediately up-gradient and adjacent to the McCoy home. Because the WaterWork report documented that an unknown portion of the soil was contaminated, then the placement of this soil constitutes an illegal discharge of waste to land. Discharge of this waste to land would have required the approval of the Regional Water Quality Control Board (RWQCB) in compliance with Waste Discharge Requirements (WDRs). To our knowledge, the RWQCB was not aware of this discharge and, therefore, did not issue a WDR authorizing this action.

Finally, the placement of contaminated soil on the 166 12th Street parcel provides an additional source of petroleum hydrocarbons. Rainfall on the 166 12th Street parcel will mobilize the contamination to migrate vertically downward to groundwater and then flow in groundwater northward from the 166 12th Street parcel down-gradient to the McCoy home. Because the groundwater levels rise to near the ground surface in the winter and spring, the northward and down-gradient migration of the contamination through groundwater can re-contaminate other fill placed on the 166 12th Street parcel all the way to the retaining wall.

We appreciate the opportunity to perform this work and look forward to assisting you. If you have any questions or would like additional information, please feel free to contact Mr. Burns at mgburns@kleinfelder.com or at (707) 571-1883.

Sincerely,

KLEINFELDER, INC.



Michael G. Burns, PG, CHG, CEG, REA
Principal Geologist

MGB\jkd

56201\SRO6L217
© 2006, Kleinfelder, Inc.

Page 2 of 2

September 12, 2006

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION
895 Aerovista Place, Suite 101
San Luis Obispo, California 93401-7906**

CLEANUP OR ABATEMENT ORDER NO. R3-2006-0016A

Issued to

**Gary Blackwell
Galen Blackwell**

Grove Laundry, a general partnership

M. Douglas Gustafson, individually and as trustee of the trust dated September 21, 1981, and as trustee of the M. Douglas Gustafson Trust dated September 1, 1989

Marilynn Gustafson, individually and as trustee of the trust dated September 21, 1981

M. Douglas Gustafson & Company, Inc.

M. Douglas Gustafson Trust dated September 1, 1989

Thomas DiMaggio and Leslie DiMaggio

API Development, Inc.

The Tamarind Group Inc.

**Former Grove Laundry, 472 Lighthouse Avenue and 166 12th Street,
Pacific Grove, Monterey County**

The California Regional Water Quality Control Board, Central Coast Region (hereafter Central Coast Water Board) finds:

1. The Central Coast Water Board issued Cleanup or Abatement Order No. R3-2006-0016 on July 19, 2006 to the following parties: Marie Blackwell, individual; Gary Blackwell, individual and general partner of Grove Laundry; Galen Blackwell, individual and general partner of Grove Laundry; Grove Laundry, a general partnership; M. Douglas Gustafson and Marilyn Gustafson, individuals and trustees under the trust agreement dated September 21, 1981; M. Douglas Gustafson, as trustee of the September 1, 1989 trust; M. Douglas Gustafson Trust dated September 1, 1989; M. Douglas Gustafson & Company, Inc., a suspended California corporation; Thomas DiMaggio and Leslie DiMaggio, individuals; API Development, Inc., a Nevada corporation; and The Tamarind Group Inc., a defaulted Nevada corporation.
2. This Order revises Order No. R3-2006-0016 to reflect information the Water Board has received about parties named in Order No. R3-2006-0016, as described below.

IT IS HEREBY ORDERED, pursuant to Sections 13267 and 13304 of the California Water Code:

1. Finding 1 of Order No. R3-2006-0016 is hereby revised to delete Marie Blackwell from the definition of "Discharger." The revised finding shall now read: *Gary Blackwell, individual and general partner of Grove Laundry; Galen Blackwell, individual and general partner of Grove Laundry; Grove Laundry, a general partnership; M. Douglas Gustafson and Marilyn Gustafson, individuals and Trustees under the trust agreement dated September 21, 1981; M. Douglas Gustafson, as trustee of the September 1, 1989 trust; M. Douglas Gustafson Trust dated September 1, 1989; M. Douglas Gustafson & Company, Inc., a suspended California corporation; Thomas DiMaggio and Leslie DiMaggio, individuals; API Development, Inc., a Nevada corporation; and The Tamarind Group Inc., a defaulted Nevada corporation (collectively hereafter Dischargers) have discharged or permitted the discharge of petroleum hydrocarbons to waters of the state at the former Grove Laundry facility located at 472 Lighthouse Avenue and 166 12th Street, Pacific Grove, Monterey County (parcels 006-199-012, 006-199-014, and 006-199-015); hereafter collectively referred to as "Property." Discharge of petroleum and its chemical constituents into waters of the state is a violation of a prohibition contained in the Water Quality Control Plan, Central Coast Basin (hereafter "Basin Plan"), Chapter 5, Section IV.A, and has created, or threatens to create, a condition of pollution or nuisance.*
2. Finding 2 of Order No. R3-2006-0016 is hereby revised to identify that Marie Blackwell is deceased. The revised finding shall now read: *Franklin and Marie Blackwell (now both deceased) bought the Property on September 10, 1958. On December 2, 1966, Franklin and Marie Blackwell sold the Property to Grove Laundry. On August 1985, Gary F. Blackwell quitclaimed his ownership of the Property to Marie Blackwell. On June 19, 1987, Marie Blackwell sold her remaining interest in the Property to Grove Laundry.*
3. Finding 7 is hereby added to Order No. R3-2006-0016 to read: *7. Gary Blackwell filed for Chapter 13 bankruptcy protection on February 6, 2002, in United States Bankruptcy Court District of Nevada (Reno).*
4. Directive Paragraph 6 of Order No. R3-2006-0016 is hereby revised to change both references to "The Dischargers" to read, *"The Dischargers, other than Gary Blackwell."* Directive Paragraph 6 now reads:

The Dischargers, other than Gary Blackwell, are liable, pursuant to California Water Code Section 13304, to the Central Coast Water Board for all reasonable costs incurred by the Central Coast Water Board to investigate unauthorized discharges of waste, or to oversee cleanup of such waste, abatement of the effects thereof, or other remedial action, pursuant to this Order, whether incurred before or after the date of this Order. The Dischargers, other than Gary

Blackwell, shall reimburse the Central Coast Water Board for all reasonable costs associated with investigation or oversight of the cleanup of this facility. Failure to pay any invoice for the Central Coast Water Board's investigation or oversight costs within the time stated in the invoice (or within thirty days after the date of invoice, if the invoice does not set forth a due date) shall be considered a violation of this Order. If the Site is enrolled in a State Board-managed reimbursement program, reimbursement shall be made pursuant to this Order and according to the procedures established in that program.

5. Cleanup or Abatement Order No. R3-2006-0016, as revised above, remains in full effect.

Ordered By: *Michael Thomas*
for Roger Briggs
Executive Officer
11-21-06
Date

Karyn Steckling - Former Grove Laundry Site, 472 Lighthouse Avenue and 166 12th Street in Pacific Grove, Monterey, California

From: "Steve Krcik" <krcik@verizon.net>
To: <ssoderberg@waterboards.ca.gov>
Date: 10/3/2006 4:46:50 PM
Subject: Former Grove Laundry Site, 472 Lighthouse Avenue and 166 12th Street in Pacific Grove, Monterey, California
CC: <KSteckling@waterboards.ca.gov>

Ms. Soderberg,

As we discussed, Red Hills Environmental Inc. on behalf of Mr. Doug Gustafson, has prepared this email to propose submittal dates for quarterly groundwater monitoring activities, dewatering activities, site assessment activities, and preparation of a corrective action plan for the Former Grove Laundry Site, located at 472 Lighthouse Avenue and 166 12th Street in Pacific Grove, Monterey, California. Also as discussed, we look forward to receiving your revised clean up and abatement order due to new data that you have received for the site. The proposed submittal dates are summarized below:

Quarterly Groundwater Monitoring Activities – Quarterly groundwater monitoring activities include groundwater elevation and quality measurements, well purging, groundwater sampling, water disposal, and reporting. Quarterly groundwater monitoring is proposed to be initiated during the fourth quarter 2006. An access agreement may need to be secured to access the McCoy property prior to initiating quarterly groundwater monitoring. The proposed schedule follows.

Fourth Quarter 2006 - Field Work November 17, 2006, Report December 22, 2006

First Quarter 2007 - Field Work February 17, 2007, Report March 22, 2007

Second Quarter 2007 - Field Work May 17, 2007, Report June 22, 2007

Third Quarter 2007 - Field Work August 17, 2007, Report September 22, 2007

Dewatering Activities – Dewatering activities include aquifer testing, dewatering plan preparation, and dewatering plan implementation. The proposed schedule follows.

Aquifer Testing – Aquifer testing includes a limited pump test and data analyses. The pump test is proposed to be performed during the first quarter groundwater monitoring event on November 17, 2006. Data analyses will follow the pump test and a dewatering plan will be prepared based on this data.

Dewatering Plan – The dewatering plan is proposed to be submitted to the RWQCB on December 22, 2006.

Dewatering Plan Implementation – Implementation of the dewatering plan is proposed to be initiated by February 17, 2007.

Site Assessment Activities – Site assessment activities include preparing a site assessment work plan, site assessment work plan implementation, and site assessment reporting. The proposed schedule follows.

Site Assessment Work Plan – The work plan is proposed to be submitted to the RWQCB by December 22, 2006. This date has been selected so that the findings of the aquifer analyses can be utilized when the work plan is prepared.

Site Assessment Work Plan Implementation - Site assessment work plan implementation is proposed to be completed four to six weeks after RWQCB approves the site assessment work plan. Field work will require less than one week to complete (February 28, 2007).

Site Assessment Report – The site assessment report will be submitted to the RWQCB six weeks after the completion of field work (April 15, 2007).

Corrective Action Plan – The corrective action plan is proposed to be prepared and submitted to the RWQCB six weeks after their comments to the site assessment report are received (June 15, 2007).

Sincerely,

Steve Krcik
Professional Geologist 4976

Red Hills Environmental Inc.
18150 Gloria Court
Los Gatos, CA 95033

Phone (408) 353 9992
Fax (408) 353 9299
Mobile (408) 455 9300
Email krcik@verizon.net

Free Consultation

EXHIBIT G

California Regional Water Quality Control Board

Central Coast Region



Linda S. Adams
Secretary for
Environmental
Protection

Internet Address: <http://www.waterboards.ca.gov/centralcoast>
895 Aerovista Place, Suite 101, San Luis Obispo, California 95401-7906
Phone (805) 549-3147 - FAX (805) 543-0397

Arnold Schwarzenegger
Governor

COPY

July 25, 2008

The Tamarind Group, Inc. **CERTIFIED MAIL 7007 00710 0004 4117 5642**
M. Douglas Gustafson & Co., Inc. **RETURN RECEIPT REQUESTED**
API Development, Inc.
M. Douglas Gustafson and Marilynn Gustafson as Trustees
c/o Mr. Douglas Gustafson
P.O. Box 1318
Pebble Beach, CA 93953

Grove Laundry
Mr. Galen Blackwell
857 Grove Acres
Pacific Grove, CA 93950

Mr. Gary Blackwell
18650 Moro Road
Salinas, CA 93970

Mr. Thomas and Ms. Leslie DiMaggio
3188 Susan Avenue
Marina, CA 93933

Dear Responsible Parties:

NOTICE OF VIOLATION – SITE CLEANUP PROGRAM: FORMER GROVE LAUNDRY SITE, 472 LIGHTHOUSE AVENUE AND 166 12TH STREET, PACIFIC GROVE, MONTEREY COUNTY

BACKGROUND

Cleanup and Abatement Order No. R3-2006-0016 and Order No. R3-2006-0016A
On July 19, 2006, the Central Coast Regional Water Quality Control Board (Central Coast Water Board) issued Cleanup and Abatement Order (CAO) No. R3-2006-0016 (CAO No. 0016, Attachment 1) to former and current property owners (Dischargers) of the subject cleanup site. On November 22, 2006, the Central Coast Water Board issued Cleanup and Abatement Order No. R3-2006-0016A (Attachment 2), which revised the Dischargers named in CAO No. 0016. Hereafter, this notice will refer to both orders collectively as "CAOs No. 0016 and No. 0016A." The site consists of three parcels designated as 472 Lighthouse Avenue and 166 12th Street, Pacific Grove, Monterey County (hereafter collectively referred to as "Property"). CAOs No. 0016 and No. 0016A require the Dischargers to clean up soil and groundwater petroleum

California Environmental Protection Agency



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Responsible Parties**2****July 25, 2008**

hydrocarbon waste at and near the Property. We are aware that The Tamarind Group Inc., current owner of the subject property, is taking the lead in addressing the Central Coast Water Board requirements for soil and groundwater cleanup.

Corrective Action Plan

CAOs No. 0016 and No. 0016A require the Dischargers to "submit a comprehensive Corrective Action Plan (CAP), which includes a feasibility analysis of the chosen remedial method, that adequately addresses all soil and [groundwater] pollution" (CAO No. 0016, page 6, item no. 4). Furthermore, CAOs No. 0016 and No. 0016A require that the feasibility analysis and CAP follow State Water Resources Control Board (State Water Board) Resolution No. 92-49, which provides that the goal for groundwater cleanup is to remove pollutants to background levels (CAO No. 0016, page 6, item no. 4.a). Below is a list of the various correspondence and submittals between the Central Coast Water Board and Dischargers regarding the CAP.

- CAOs No. 0016 and 0016A require submission of the CAP by November 30, 2006.
- The Central Coast Water Board extended the due date for CAP submission to June 15, 2007, in the transmittal letter for CAO No. 0016A dated November 22, 2006 (Attachment 2).
- The Dischargers submitted a CAP on July 5, 2007; however, the CAP failed to provide adequate workplan details. Therefore, on July 27, 2007, Central Coast Water Board staff sent a letter (Attachment 3) requiring the Dischargers to submit additional details pertaining to the CAP by August 17, 2007.
- The Dischargers submitted CAP Details on August 20, 2007, which did not include the necessary information for the Central Coast Water Board to approve the workplan. Additionally, the CAP Details also lacked the necessary information for the neighboring property owner to provide access to the Dischargers to implement the work. Therefore, on January 24, 2008 (Attachment 4), the Central Coast Water Board required the Dischargers to submit details regarding the work proposed in the CAP in a comprehensive workplan by April 21, 2008.
- The Dischargers submitted a CAP Addendum on April 21, 2008, with a different scope of work proposed compared to the July 7, 2007 CAP, and the August 20, 2007 CAP Details. The April 21, 2008 CAP Addendum fails to meet the requirements of CAOs No. 0016 and No. 0016A. Specifically, the CAP Addendum does not include plans to clean up petroleum waste in soil and groundwater to background levels, nor does it include a justification for technical or economic infeasibility for not doing so.

As of the date of this notice, the Dischargers have not submitted a CAP that 1) complies with the requirements of CAOs No. 0016 and No. 0016A nor 2) addresses the more specific requirements of our letters dated July 27, 2007 and January 24, 2008.

Responsible Parties

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July 25, 2008

Offsite Discharge Abatement

CAOs No. 0016 and No. 0016A require the Dischargers to abate the discharge of separate-phase and dissolved-phase petroleum hydrocarbons in groundwater from migrating off the Property, specifically onto 164 12th Street (CAO No. 0016, page 5, item no. 1). Below is a list of the various correspondence and submittals between the Central Coast Water Board and Dischargers regarding this discharge abatement.

- CAOs No. 0016 and 0016A required abatement of the discharge by September 15, 2006, prior to the 2006/2007 wet season.
- In a letter dated November 22, 2006, the Central Coast Water Board extended the requirement to abate the discharge to February 16, 2007, and required submission of proposed measures to abate the discharge by January 8, 2007.
- The Central Coast Water Board's May 8, 2007 letter (Attachment 5) allowed the Dischargers to submit proposed measures to abate the discharge along with the CAP due June 15, 2007 (see *Corrective Action Plan* section above), since the Dischargers did not abate the discharge before the 2006/2007 rainy season.
- Since the Dischargers did not submit an adequate CAP by June 15, 2007, the Central Coast Water Board could not approve the work and thus the Dischargers did not implement measures to abate the discharge before the 2007/2008 rainy season.

As of the date of this notice, the Dischargers have not abated the petroleum waste from migrating off the Property.

Monitoring and Reporting Program No. R3-2003-0110

CAOs No. 0016 and No. 0016A require the Dischargers to monitor groundwater and submit groundwater-monitoring reports in accordance with Monitoring and Reporting Program (MRP) No. R3-2003-0010 (CAO No. 0016, page 7, item no. 5). Dischargers failed to submit a first quarter 2008 groundwater-monitoring report by April 20, 2008.

VIOLATIONS

Failure to comply with CAOs No. 0016 and No. 0016A's requirements to (1) submit a comprehensive CAP that adequately addresses all soil and groundwater waste, (2) abate the discharge of petroleum hydrocarbon waste from migrating off the Property, or (3) submit a groundwater-monitoring report by April 20, 2008 subjects the Dischargers to monetary penalties pursuant to California Water Code Section 13268 and 13350. This Notice of Violation is to inform you of your violation of these orders, and of the associated liabilities that accrue for each day of violation.

The Former Grove Laundry Dischargers are in violation of CAOs No. 0016 and No. 0016A as follows:

- Failure to submit a CAP that adequately addresses all soil and groundwater pollution in accordance with State Water Board Resolution No. 92-49.

Responsible Parties

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July 25, 2008

- Failure to abate the discharge of separate-phase and dissolved-phase petroleum hydrocarbons in groundwater from migrating off the Property.
- Failure to submit a quarterly groundwater monitoring report by April 20, 2008, in accordance with MRP No. R3-2003-0110.

LIABILITIES

You are required to immediately (1) submit a comprehensive CAP that complies with CAOs No. 0016 and No. 0016A and the requirements specified in our letters dated July 27, 2007 and January 24, 2008, (2) abate the discharge of petroleum waste migrating off the Property, and (3) conduct and submit a report on groundwater monitoring in accordance with MRP No. R3-2003-0110.

Pursuant to Water Code Section 13350, your violation of CAOs No. 0016 and No. 0016A, and Water Code Section 13304 subjects you to administrative civil liability of up to \$5,000 for each day each violation occurs from CAO No. 0016's compliance date. Furthermore, pursuant to Water Code Section 13268, your violation of the reporting requirements of CAOs No. 0016 and No. 0016A, MRP No. R3-2003-0110, and Water Code Section 13267 subjects you to administrative civil liability of up to \$1,000 per day for each day in which the violation occurs. As of July 25, 2008, the maximum liability that the Central Coast Water Board may impose upon Former Grove Laundry Dischargers is \$6,506,000, based on the provisions of California Water Code Section 13268 and 13350, itemized as follows:

- \$3,015,000 for failure to submit a CAP that adequately addresses all soil and groundwater pollution in accordance with State Water Board Resolution No. 92-49 [603 days of violation multiplied by \$5,000 per day pursuant to Water Code Section 13350].
- \$3,395,000 for failure to abate the discharge of separate-phase and dissolved-phase petroleum hydrocarbons in groundwater from migrating off the Property [679 days of violation multiplied by \$5,000 per day pursuant to Water Code Section 13350].
- \$96,000 for failure to submit a quarterly groundwater monitoring report by April 20, 2008, in accordance with Monitoring and Reporting Program No. R3-2003-0110 [96 days of violation multiplied by \$1,000 per day pursuant to Water Code Section 13268].

Each day of continued violation subjects you to additional monetary liability. The Central Coast Water Board reserves the right to take any enforcement action the law allows.

Reimbursement of Regulatory Oversight Costs

Additionally, CAOs No. 0016 and No. 0016A require the Dischargers to reimburse the Central Coast Water Board for all reasonable regulatory oversight costs (CAO No. 0016, page 7, item no. 6). Dischargers have failed to reimburse the Central Coast Water Board for regulatory oversight costs. As of March 31, 2008, the Dischargers owe

Responsible Parties**5****July 25, 2008**

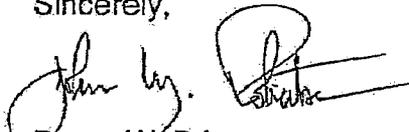
the State Water Board \$38,882.06 (Attachment 6). Continued failure to pay the State Water Board invoices and future staff costs will subject the Dischargers to fee collection proceedings initiated by the State Attorney Generals Office.

Electronic Submittals

Lastly, Dischargers have failed to upload electronic submittals to Geotracker in accordance with Title 23, Division 3, Chapter 30. Until Remediation Risk Management Inc. uploaded their April 21, 2008 Corrective Action Plan Addendum on May 22, 2008, the Dischargers did not upload any documents since the law became effective July 1, 2005. The Central Coast Water Board notified you of these requirements in our letters dated September 29, 2005 and August 2, 2006 and in an email dated May 7, 2008. You are required to upload all technical documents electronically to Geotracker that you previously submitted only via hard copy from July 1, 2005 to present.

If you have any questions regarding this notice or regarding our agency's requirements, please contact **Karyn Steckling at 805.542.4642** or Thea Tryon at 805.542.4776.

Sincerely,

For 
Roger W. Briggs
Executive Officer

Attachment 1 – Central Coast Water Board's CAO Order No. R3-2006-0016
Attachment 2 – Central Coast Water Board's CAO Order No. R3-2006-0016A
Attachment 3 – Central Coast Water Board's July 27, 2007 letter
Attachment 4 – Central Coast Water Board's January 24, 2008 letter
Attachment 5 – Central Coast Water Board's May 8, 2007 letter
Attachment 6 – State Water Board, Site Cleanup Program, Invoice for Oversight Costs for the period ending March 31, 2008.

S:\Site Cleanup Program\Regulated Sites\Monterey Co\Pacific Grove\472 Lighthouse - Grove Laundry\NOV, ACL\NOV-07,08.doc

cc: via email

Ms. Frances McChesney, SWRCB - Office of Chief Counsel

Mr. Reed Sato, SWRCB - Office of Enforcement

cc: via mail and with attachments

Mr. Matt Kaempf, Remediation Risk Management, Inc.

cc: via mail and without attachments

CTE Properties c/o Mr. Mark Hudak, Carr, McClellan, Ingersoll, Thompson, & Horn

Dr. Tony and Ms. Clair Cedolini

Mr. Robert Giattino, Remediation Risk Management, Inc.

Mr. Cory Welch, Monterey County Health Department

Mr. Dean Flippo, Deputy District Attorney

California Environmental Protection Agency



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Responsible Parties

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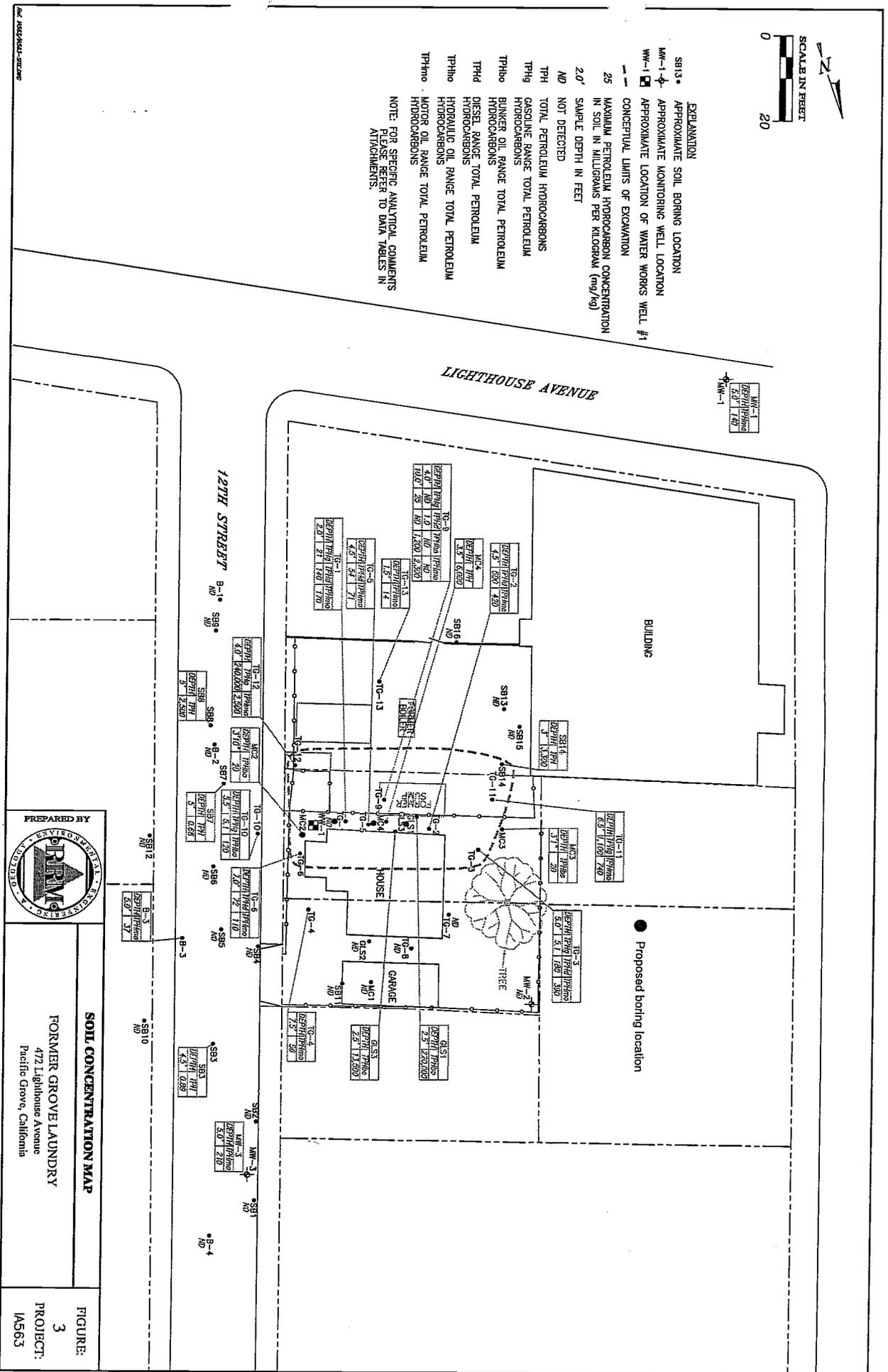
July 25, 2008

Mr. Steve Krcik, Red Hill Environmental, Inc.
Ms. Kathleen Clack, Law Offices of Kathleen Clack
Mr. Michael Burns, MACTEC Engineering and Consulting
Ms. Cecelia McCoy, Interested Person
Ms. Barbara May, Bohnen, Rosenthal & Dusenbury
Mr. Timothy Daley, Musick, Peeler & Garrett LLP
Ms. Virginia Howard, Fenton & Keller
City of Pacific Grove, Building Division
Ms. Sally Kane, Interested Person
Mr. George Grayson, Interested Person
Ms. Kim Rowe, Interested Person
Mr. John Kurzenhauser, Interested Person
Mr. Lloyd and Ms. Nancy Coyne, Interested Persons

EXHIBIT H

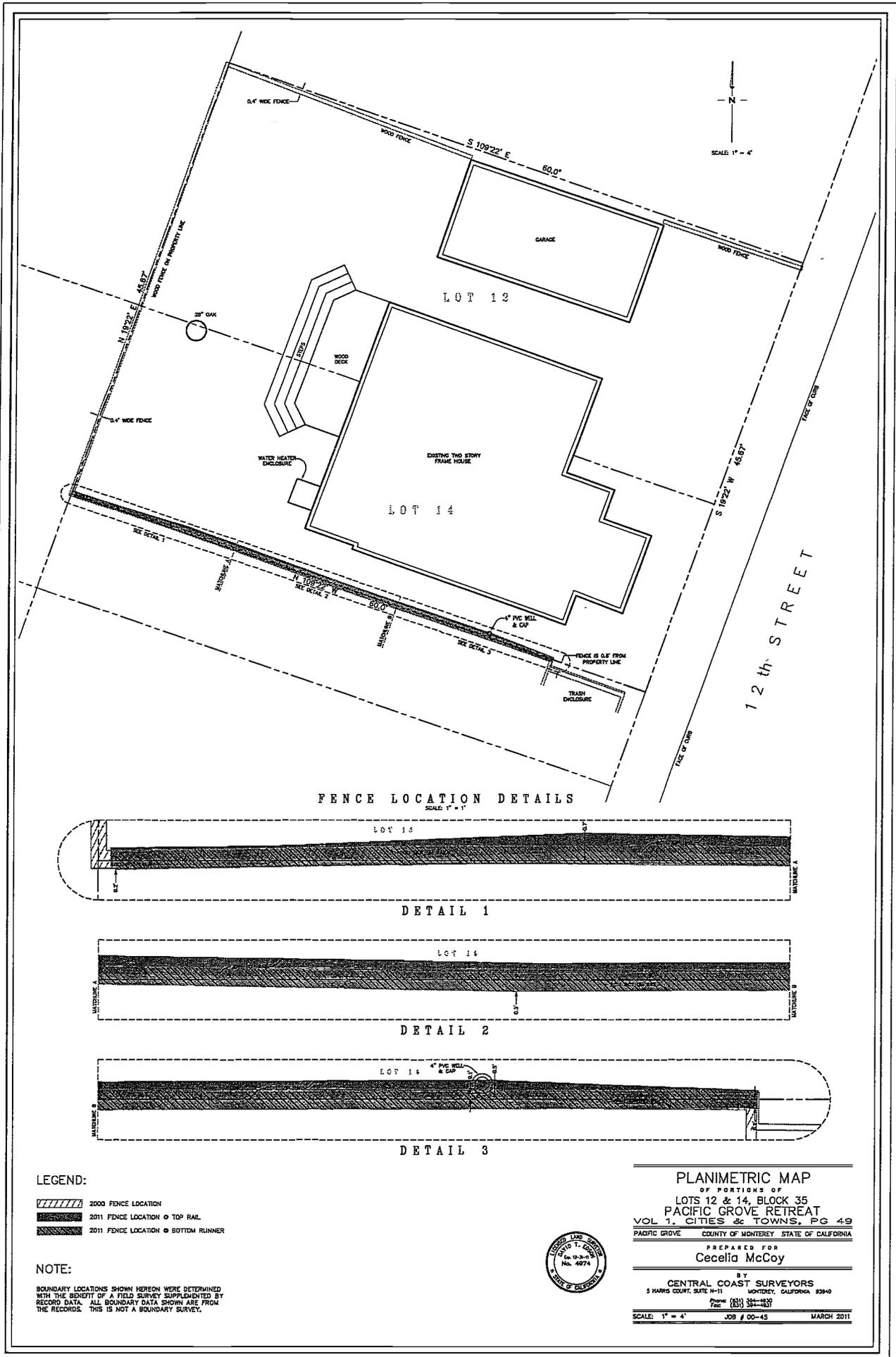


- EXPLANATION**
- SB13 • APPROXIMATE SOIL BORING LOCATION
 - MW-1 ◊ APPROXIMATE MONITORING WELL LOCATION
 - MW-1 ◻ APPROXIMATE LOCATION OF WATER WORKS WELL #1
 - CONCEPTUAL LIMITS OF EXCAVATION
 - 25 MAXIMUM PETROLEUM HYDROCARBON CONCENTRATION IN SOIL IN MILLIGRAMS PER KILOGRAM (mg/kg)
 - 2.0' SAMPLE DEPTH IN FEET
 - ND NOT DETECTED
 - TPH TOTAL PETROLEUM HYDROCARBONS
 - TPH₉ GASOLINE RANGE TOTAL PETROLEUM HYDROCARBONS
 - TPH₁₀ BUNKER OIL RANGE TOTAL PETROLEUM HYDROCARBONS
 - TPH₁₁ DIESEL RANGE TOTAL PETROLEUM HYDROCARBONS
 - TPH₁₂ HYDRAULIC OIL RANGE TOTAL PETROLEUM HYDROCARBONS
 - TPH₁₃ MOTOR OIL RANGE TOTAL PETROLEUM HYDROCARBONS
- NOTE: FOR SPECIFIC ANALYTICAL COMMENTS AND COMMENTS REFER TO DATA TABLES IN ATTACHMENTS.



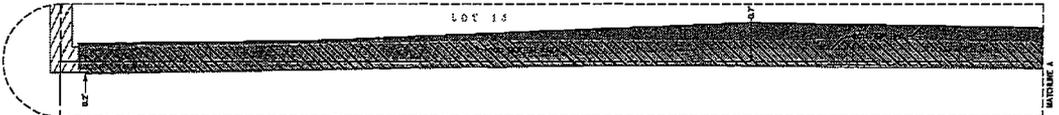
SOIL CONCENTRATION MAP
 FORMER GROVE LAUNDRY
 472 Lighthouse Avenue
 Pacific Grove, California

FIGURE:
 3
 PROJECT:
 IA563

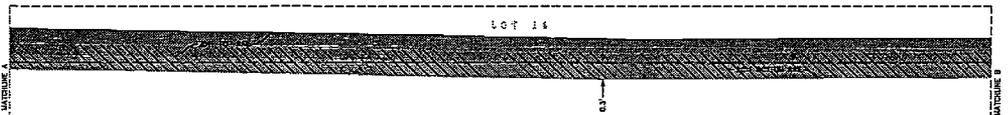


N
SCALE 1" = 4'

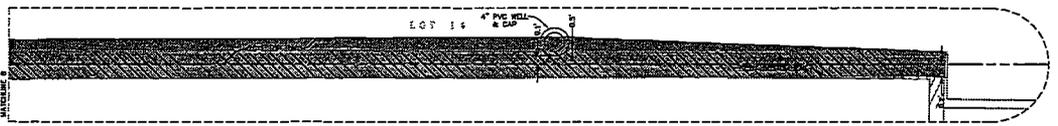
FENCE LOCATION DETAILS
SCALE 1" = 1'



DETAIL 1



DETAIL 2



DETAIL 3

- LEGEND:
- 2000 FENCE LOCATION
 - 2011 FENCE LOCATION @ TOP RAIL
 - 2011 FENCE LOCATION @ BOTTOM RUNNER

NOTE:
BOUNDARY LOCATIONS SHOWN HEREON WERE DETERMINED WITH THE BENEFIT OF A FIELD SURVEY SUPPLEMENTED BY RECORD DATA. ALL BOUNDARY DATA SHOWN ARE FROM THE RECORDS. THIS IS NOT A BOUNDARY SURVEY.



PLANIMETRIC MAP
OF PORTIONS OF
LOTS 12 & 14, BLOCK 35
PACIFIC GROVE RETREAT
VOL 1, CITIES & TOWNS, PG 49
PACIFIC GROVE COUNTY OF MONTEREY STATE OF CALIFORNIA

PREPARED FOR
Cecelia McCoy

BY
CENTRAL COAST SURVEYORS
5 HARRIS COURT, SUITE M-11 MONTEREY, CALIFORNIA 93940
Phone (831) 364-4832
Fax (831) 364-4831

SCALE: 1" = 4' JOB # 00-45 MARCH 2011

MONTEREY COUNTY HEALTH DEPARTMENT
DIVISION OF ENVIRONMENTAL HEALTH -
HAZARDOUS MATERIALS MANAGEMENT SERVICES

APPLICATION TO CONSTRUCT OR DESTROY MONITORING WELL OR SOIL BORING
One application per Monitoring Well

Date of Application: 09.29.2010 APN: _____ Well # www.1

- Monitoring Well - Fee \$407.00 ea. - Construction - Abandonment/Destruction
 - Soil Boring - Fee \$136.00 per site - # of S.B.: _____

Physical Address of site: 478 Lighthouse Avenue, Pebble Beach, CA 95060

Site contact person: Matt Kempt

Phone Number: 619-227-4719

Owner: <u>Tamarind Group</u>	Consultant: <u>RRM, Inc.</u>	Driller: <u>Malcolm Drilling</u>
Address: <u>P.O. Box 1318</u>	Address: <u>2580 Sequel Ave., Su. 202</u>	Address: <u>82 Natoma Street, Suite 400</u>
City: <u>Pebble Beach</u>	City: <u>Santa Cruz</u>	City: <u>San Francisco</u>
State: <u>CA 95063</u> Zip: _____	State: <u>CA 95062</u> Zip: _____	State: <u>CA 94106</u> Zip: _____
Phone: <u>831-626-0500</u>	Phone: <u>831-476-8141</u>	Phone: <u>415-901-4400</u>

A C-57 License is required by law. C-57 _____ Date of estimated work: Start: _____ Finish: _____

A map showing the following data must accompany this application:

- The property lines, distances of the proposed well/soil boring to the property lines, other wells or borings on the property and adjacent properties.
- The location of the proposed well/soil borings must be marked at the site by a surveyor's stakes with the words "proposed well/soil boring".
- A work plan and site safety plan must also accompany well and soil boring applications.

REASON FOR INSTALLATION - DESTRUCTION OF MONITORING WELL: _____

TYPE OF WELL OR BORING <input type="checkbox"/> Ground Water Monitoring <input type="checkbox"/> Vapor Extraction <input type="checkbox"/> Vadose Zones <input type="checkbox"/> Piezometer <input type="checkbox"/> Soil Boring/ Core Sampling <input type="checkbox"/> Cathodic Protection Well <input checked="" type="checkbox"/> Other <u>Drillers origin PWS structure</u>	PROPOSED SPECIFICATIONS Depth (ft): _____ Diameter (in): _____ Width seal (in): _____ Depth perforations: _____	CASING Single/Double: _____ Material: _____ Type of joint: _____ Gravel Pack (ft): _____ Filter pack (ft): _____	DRILLING METHOD <input checked="" type="checkbox"/> Rotary <input type="checkbox"/> Cable <input type="checkbox"/> Dug <input type="checkbox"/> Other _____
	Location of well Soils: (ft) _____		

Existing Wells on property: Check one

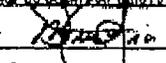
Condition of other wells on property <input type="checkbox"/> In use <input type="checkbox"/> Inactive <input type="checkbox"/> Abandoned	Indicate intentions for use of replaced well: <input type="checkbox"/> To be abandoned <input type="checkbox"/> To supplement new well <input type="checkbox"/> To be LEFT inactive <input type="checkbox"/> Irrigation (AG)
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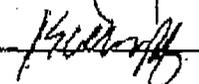
- WELL DESTRUCTION. - SOIL BORING DESTRUCTION

Submit well log with the application and a site plan. Depth of well/boring (ft) _____ Depth of proposed seal(s) (ft) _____
Materials to be used: _____
Location of screens or perforations: _____
Cleaning of well required: _____

I hereby agree to comply with all laws and regulations of the County of Monterey and the State of California pertaining to well/soil boring construction and destruction. I will contact the Monterey County Health Department before I commence the work. After completion of the work, I will furnish the Monterey County Health Department a log, signed and stamped by a certified professional. A certified professional will also directly supervise all drilling operations. I hereby agree that I will not commence work until I have a valid permit and that I will notify the Monterey County Health Department if I change the location of the well/boring site. I hereby agree to pay all fees at the time of application and any subsequent fees that may occur.

All legal representatives signatures must be obtained before a permit is issued.

Property Owner: Tamarind Group, INC. 

Drilling Contractor: RRM, Inc. 


Circle one: Professional Geologist Civil Engineer

Print Name: Matt Kempt

Certification Number: 8193

Mail your MY/SB application packet along with your check to:

Monterey County Health Dept. - Environmental Health
Attn: Hazardous Materials Management Services
1270 Natividad Rd., Room B301
Seaside, CA 95960

Questions: (831) 753-4511 • Fax #: (831) 753-8954
<http://www.co.monterey.ca.us/health/EnvironmentalHealth/>



California Regional Water Quality Control Board

Central Coast Region



Linda S. Adams
Secretary for the
Environment

Internet Address: <http://www.waterboards.ca.gov/centralcoast/>
895 Aerovista Place, Suite 101, San Luis Obispo, California 93401
Phone (805) 549-3147 • FAX (805) 543-0397

Arnold Schwarzenegger
Governor

August 22, 2008

Mr. Douglas Gustafson
The Tamarind Group
P.O. Box 1318
Pebble Beach, CA 93953

Mr. Gary Blackwell
18650 Moro Road
Salinas, CA 93970

Mr. Galen Blackwell
857 Grove Acres
Pacific Grove, CA 93950

Mr. Thomas and Ms. Leslie DiMaggio
3188 Susan Avenue
Marina, CA 93933

Dear Responsible Parties:

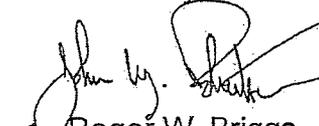
SITE CLEANUP PROGRAM: FORMER GROVE LAUNDRY SITE, 472 LIGHTHOUSE AVENUE AND 166 12TH STREET, PACIFIC GROVE, MONTEREY COUNTY – RESPONSE TO REQUEST FOR REDUCTION IN GROUNDWATER MONITORING FREQUENCY

Central Coast Regional Water Quality Control Board (Central Coast Water Board) staff reviewed Red Hills Environmental Inc.'s (RHE) March 25, 2008 letter requesting reduction in groundwater monitoring frequency from quarterly to annually.

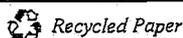
Central Coast Water Board staff concur that a reduction in groundwater monitoring frequency is appropriate at this time; however, monitoring for seasonal fluctuation is necessary. Additionally, a recently discovered well/casing (identified as "Water Works Well 1") contains significant amounts of free product (4.5 to 6 feet). Frequent monitoring of the free product in this well is important because Dischargers have only sampled the well/casing a few times and it is located offsite on the neighbor's property. Therefore, Central Coast Water Board staff revised your Monitoring and Reporting program to require semiannual groundwater monitoring. Please see attached Monitoring and Reporting Program No. R3-2003-0110 (Revised August 22, 2008). Your next groundwater monitoring report is due **October 20, 2008.**

If you have any questions, please contact Karyn Steckling at (805) 542-4642 or Thea Tryon at (805) 542-4776.

Sincerely,


FOIA Roger W. Briggs
Executive Officer

California Environmental Protection Agency



Attachment: Monitoring and Reporting Program No. R3-2003-0110 (Revised August 22, 2008)

cc: (with attachment):

Mr. Matt Kaempf, Remediation Risk Management, Inc.
Mr. Timothy Daley, Musick, Peeler & Garrett LLP
Ms. Kathleen Clack, Law Offices of Kathleen Clack
Ms. Frances McChesney, SWRCB - Office of Chief Counsel (via email)

cc: (without attachment):

CTE Properties c/o Mr. Mark Hudak, Carr, McClellan, Ingersoll, Thompson, & Horn
Dr. Tony and Ms. Clair Cedolini
Mr. Robert Giattino, Remediation Risk Management, Inc.
Mr. Cory Welch, Monterey County Health Department
Mr. Dean Flippo, Deputy District Attorney
Mr. Steve Krcik, Red Hill Environmental, Inc.
Mr. Michael Burns, Kleinfelder
Ms. Cecelia McCoy, Interested Person
Ms. Barbara May, Bohnen, Rosenthal & Dusenbury
Ms. Virginia Howard, Fenton & Keller
City of Pacific Grove, Building Division
Ms. Sally Kane, Interested Person
Mr. George Grayson, Interested Person
Ms. Kim Rowe, Interested Person
Mr. John Kurzenhauser, Interested Person
Mr. Lloyd and Ms. Nancy Coyne, Interested Persons

S:\Site Cleanup Program\Regulated Sites\Monterey Co\Pacific Grove\472 Lighthouse - Grove Laundry\response to reduced monitoring 08.08 TST.kls.doc

EXHIBIT I

KATHLEEN P. CLACK

PACIFIC GROVE
(831) 647-8923
FAX (831) 375-0813

ATTORNEY AT LAW
5200 NORTH PALM AVENUE, SUITE 308
FRESNO, CALIFORNIA 93704-2225

FRESNO
(559) 241-7229
FAX (559) 241-7256

July 23, 2010

Mr. John Robertson
Groundwater Protection Section Manager
California Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, California 93401

RE: Former Grove Laundry Site and 164 12th Street

Dear Mr. Robertson:

Per your request, we provide the following agreement with the existing California Regional Water Quality Control Board (Water Board) orders and directives regarding the former Grove Laundry site in Pacific Grove. We begin with the Cleanup and Abatement order dated July 19, 2006 and continue through December 31, 2009, followed by a list of significant Water Board requirements from the various documents.

Finally, we have identified those requirements which the Water Board has set forth that must be accomplished in order to complete the cleanup and abatement of 164 12th Street, in accordance with the Water Board orders and in order to be protective of her interests.

Removal Requirements from 164 12th Street, Pacific Grove, CA

As documented in various investigative reports and in California Regional Water Quality Control Board (WaterBoard) documents, investigation of the release of petroleum hydrocarbons from the former Grove Laundry site at 166 12th Street and 472 Lighthouse properties dates back to at least 1986. The owners of 164 12th Street property in Pacific Grove discovered oil seeping onto their property from the 166 12th Street property in 1999. As of this date, the conditions have not been abated or removed by the owner of 166 12th Street property since discovery, nor have any of the abatement directives from the Water Board been implemented. The following text references and reproduces excerpts from various Water Board documents providing directives to the responsible party.

July 19, 2006 - Cleanup or Abatement Order #2006-0016

The Water Board issued a Corrective Action Order #2006-0016 (CAO) to Responsible Party and Discharger, M. Douglas Gustafson, Tamarind Group, Inc. et al. on July 19, 2006, ordering the cleanup and abatement of “a condition of nuisance” that was “obstructing the free use of the Property and neighboring property, interfering with the comfort and enjoyment of life or property, and affect at the same time the neighboring McCoy property and City of Pacific Grove right-of-way (along 12th Street). These conditions also constitute pollution.” (P. 4, para 19) These conditions are also “...a violation of a prohibition contained in the Water Quality control Plan, Central Coast Basin (Basin Plan), Chapter 5, Section IV, A, and has created...a condition of pollution or nuisance.” (P. 1-2, para 1)

The CAO further states that “This enforcement action is being taken for the protection of the environment”. (P 5, para 20) “Pursuant to California Water Code Section 13340 (c), Dischargers are hereby notified that the Water Board is entitled to and may seek reimbursement of all reasonable staff costs incurred in its oversight of cleanup of wastes at the Property, abating the effects thereof, or taking other remedial action.” (P. 5, para 21)

The CAO then ordered the Responsible Party/Discharger to “abate the discharge of separate-phase and dissolved-phase petroleum hydrocarbons in groundwater from migrating off the Property (specifically to the McCoy property). The Water Board suggested “install[ing] a curtain drain...to prevent groundwater with petroleum hydrocarbons from reaching the McCoy property...Dischargers shall obtain either an Industrial Wastewater Permit from the Monterey Regional Water Pollution Control Agency or a national Pollutant Discharge Elimination System Permit from the Central Coast Water Board to remove TPH prior to discharging the treated groundwater to the sanitary sewer or storm drain. In the event that the Dischargers cannot obtain a permit from either entity...groundwater with TPH must be pumped, treated, and properly disposed at a TPH recycling facility.” (P 5, para 1(a))

The CAO stated further that “The method chosen MUST ensure no damage will occur to the site structures including the retaining wall and the house on the McCoy property.” (P 5, para 1(b))

The CAO required that the Dischargers submit a comprehensive Corrective Action Plan (CAP) with a “feasibility analysis and CAP [which] must consider State Board Resolution No. 92-49, which provides that the goal for groundwater cleanup is to remove pollutants to background levels.” (P. 6, para 4(a))

The CAO required further that “Remedial actions shall not damage or compromise property structures such as the retaining wall and house located on the McCoy property. All site features on the McCoy property must be returned to their original condition (i.e. brick walkways, concrete driveway, etc.). The Central Coast Water Board may require the Dischargers to post a surety bond to repair any damages resulting from the corrective actions to the McCoy structure(s).” (P. 7, para 4 (e))

November 22, 2006 - Update and Clarification of Cleanup or Abatement Order #2006-0016 and Transmittal of CAO No. R3-2006-0016A

The Water Board issued the Update and Clarification of the CAO #2006-0016 and CAO #2006-0016A to Responsible Party/Discharger, Gustafson on November 22, 2006, which provided the following directives:

“By February 16, 2007, Dischargers shall implement interim measures to abate the nuisance condition...” “The method chosen must ensure no damage will occur to site structures including the retaining wall, the house, or the house foundation on the McCoy Property.” (P. 3, Item 1)

“Dischargers shall submit a comprehensive Corrective Action Plan (CAP) which...must consider State Water Resources Control Board Resolution No. 92-49, which provides that the goal for groundwater cleanup is to remove pollutants to background levels.” (P.4, Item 4a)

“Remedial actions shall not damage or compromise property structures such as the retaining wall and house located on the McCoy property. All site features on the McCoy property must be returned to their original condition.” (P.5, Item 4e)

January 24, 2008 - Water Board Response to Corrective Action Plan and Requirements

Elements missing from the Discharger/Responsible Party Gustafson’s CAP dated July 5, 2007 led to the following requirements being imposed by the Water Board, particularly since this CAP proposed to remove the retaining wall:

1. Engineering Plan for structural support of the McCoy residence during excavation of contaminant soils.
2. A slope stability plan approved by the City of Pacific Grove.
3. Proof of liability insurance to protect against damage to 164 12th Street property
4. Access agreements from the owners of 472 Lighthouse, 159 13th Street, and 164 12th Street.
5. A detailed description of the proposed excavation.
6. A Plan to expand the proposed excavation if more contamination than expected is found in 12th Street itself.
7. Spacing of sidewall and bottom sampling of excavation points for 12th Street.
8. Post action soil and ground water monitoring.
9. Remedial contingency plan after the CAP.

July 25, 2008 - Notice of Violation by Water Board

On July 25, 2008, **2 full years after the Cleanup and Abatement Order**, the Water Board, issued a letter stating:

- “the Dischargers have not submitted a CAP that
 - 1) complies with the requirements of CAOs No. 0016 and No. 0016A nor
 - 2) addresses the more specific requirements of our letters dated July 27, 2007 and January 24, 2008.” (NOV P. 2, para 2)
- **“As of the date of this notice, the Dischargers have not abated the petroleum waste from migrating off the Property.”** (NOV P. 3, para 3)
- “Pursuant to Water Code...subject you to administrative civil liability...As of July 25, 2008, the maximum liability that the Central Coast Water Board may impose upon Former Grove Laundry Dischargers is **\$6,506,000**, based on the provisions of California Water Code Section 13268, and 13350...”. (NOV P. 4, para 2)
- “Each day of continued violation subjects you to additional monetary liability. The Central coast Water Board reserves the right to take any enforcement action the law allows.” (NOV P. 4, para 3)

Since the Notice of Violation issued July 25, 2008 the Water Board can impose 2 more years of fines.

October 19, 2009 - Water Board Response to Revised Corrective Action Plan dated October 27, 2008

The Water Board states that “The October [2008] CAP does not contain a plan to completely remove waste constituents to background concentrations or to abate nuisance conditions caused by the discharges of waste at and from the site. It is the Water Boards staff’s professional opinion that it is technically feasible to cleanup to background concentrations at this site”, according to Water Board Resolution 92-49 Title 23 CCR section 2550.4, removing waste constituents to background and abating nuisance conditions caused by discharges of waste at and from the site. (P. 2, para 2)

“CAO No. R3-2006-0016, Section 4.e orders that the Dischargers’ remedial actions shall not compromise property structures such as the house on the McCoy property. Section 4.e also orders the restoration of the property to the original condition after corrective actions.” (P. 2, para 3)

“...compliance with CAO No. R3-2006-0016 and No. R3-2006-016A, it appears feasible to temporarily relocate the McCoy residence to remove all underlying soil and groundwater pollution.” (P. 3, unfinished 1st para)

The Water Board rationale for approving lifting the house as the preferred method for excavating the contaminant soils on 164 12th Street are as follows:

“With the proposed stepwise approach in the [Discharger/Responsible Party Gustafson’s] October CAP, the Dischargers will be required to conduct additional assessment, long term monitoring, and a feasibility study due to leaving waste in place. Leaving waste in place will also necessitate initial sampling the discharge from the under-drain from your proposed retaining wall. Waste constituents remaining in soil and groundwater in the area may migrate to the under-drain and potential discharge to surface water. Discharging waste to surface water is prohibited under the California Water Code and controls/treatment to waste in the discharge will be required. All of these post-corrective action requirements will likely be ongoing for an indefinite period and will increase future costs associated with leaving the waste in place. Those costs should be considered in evaluating the feasibility and benefits afforded by a more complete removal of the waste constituents immediately adjacent to, and under the McCoy property.” (P. 3, para 1)

“If the Dischargers remove all of the waste constituents (i.e., moving the McCoy residence), the need for follow up investigations, feasibility assessment, continued monitoring and waste handling, and subsequent corrective actions will likely not be required.” (P. 3, para 2)

To do otherwise, in a “stepwise approach versus removing the majority of the waste discharges by temporarily relocating the McCoy residence...you must also provide justification...The latter [temporarily relocating the McCoy residence] is Water Board’s staff’s preferred corrective action alternative for achieving a more complete removal of waste in compliance with the requirements of CAO No. R3-2006-0016 and No R3-2006-0016A.” (P. 3, para 3)

December 31, 2009 - Water Board Response to Request for Extension

The Water Board granted an extension to the Discharger/Responsible Party Gustafson because “the Responsible Parties have agreed to improve the proposed cleanup approach by removing additional waste by temporarily lifting the McCoy residence” (P. 1, Item 1)

Further, the “Responsible Parties are required to submit...a realistic plan for post remedial site restoration to prevent impacts to adjacent properties; for example surface water drainage and slope stability.” (P. 2, Item 5).

Project Requirements Identified by the Water Board

1. Margaret and Edward McCoy were not, nor is Ms. Cecelia McCoy a responsible party.
2. Margaret and Edward McCoy were not, nor is Ms. Cecelia McCoy a discharger.

3. The Discharger/Responsible party must clean-up and abate the contamination.
4. The Discharger/Responsible party must assure no damage to the structures on the McCoy property.
5. The Discharger/Responsible party must either post a surety bond to restore property damaged by the cleanup and abatement or secure and provide proof of liability insurance for that purpose.
6. The Discharger/Responsible party must restore the property to its original condition following cleanup and abatement
7. The Discharger/Responsible party must engineer a structural support plan during excavation.
8. The Discharger/Responsible party must prepare a slope stability plan approved by the City of Pacific Grove. This would, of course, include engineered drainage to collect and route surface and groundwater away from the McCoy property to prevent the migration of post-abatement residual concentrations of petroleum hydrocarbons from migrating onto or beneath the McCoy property. Water Board letters have suggested a curtain drain or equivalent.
9. The Discharger/Responsible party must prepare a detailed description of the proposed excavation with a plan for expansion pending expansion if more contamination is found during the proposed excavation.
10. The Discharger/Responsible party must provide sidewall and bottom sampling.
11. The Discharger/Responsible party must plan for post action soil and ground water monitoring.
12. The Discharger/Responsible party must prepare a post CAP remedial contingency plan.
13. The Discharger/Responsible party agreed to lift the McCoy house or be subject to long term monitoring, Water Board cost assessments, shoring costs to protect the house and/or slot costs, inability to cleanup to background concentrations at the site.

To date, none of the above-listed Water Board CAOs, directives, or requirements have been implemented by the Discharger/Responsible Party.

Before initiating cleanup and abatement:

1. The Discharger/Responsible Party must open an escrow account that contains a deposit for the full amount of:
 - a. the cost of cleanup and abatement,
 - b. moving cost of Ms. McCoy from her residence (moving, alternate residential rent, storage, return move),
 - c. cost of property restoration, and
 - d. contingency fund for possible unplanned excavation requirements
2. The Discharger/Responsible Party shall retain all interest accruing to the escrow account.

3. The Discharger/Responsible party shall provide proof of liability insurance for the value of the contents of the McCoy residence should damage occur to the residence during the cleanup and abatement of the contamination. Proof of policy to be maintained with the escrow account/safe deposit box.
4. The Discharger/Responsible Party shall meet to assure benchmarks established through neutral mediation at the Conflict Resolution Mediation Center of Monterey County at which the Water Board and stakeholders will be present, the first meeting to be held before initiation of the project to establish goals and objectives.

In closing, it is most important to dispel any notions that either the McCoy Trust or Ms. Cecelia McCoy will pay for the cleanup and abatement, relocation during cleanup and abatement, or restoration of 164 12th Street, or any part thereof, for which she has no responsibility.

As I stated to you in our recent telephone conversation, Ms. McCoy will not be paying for a new foundation. The City of Pacific Grove does not allow a return to the old foundation once the house is lifted. Ms. McCoy is not the discharger who created the need for excavation, the damage potential to the house, nor the need to lift the house. She did not agree to lifting the house, nor any other assumption having to do with grading, permitting, planning, connecting/reconnecting utilities, etc., as has been identified in the Discharger/Responsible Party Gustafson contractor's CAP revisions.

Lastly, we concur with the Water Board that a piecemeal "stepwise" approach described by the Discharger/Responsible Party Gustafson is not acceptable, nor is it necessary. After 11 years, the Water Board has made it clear what must be done. It is time for enforcement.

We are most grateful for the work that the Water Board has done in the orders it has issued over the years and look forward to enforcement of the excellent principles and science it has set forth.

Sincerely,

Kathleen P. Clack

c: Cecelia McCoy
Roger Briggs

KATHLEEN P. CLACK

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August 12, 2010

Mr. John Robertson
Groundwater Protection Section Manager
California Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, California 93401

RE: Former Grove Laundry Site and 164 12th Street

Dear Mr. Robertson:

We are in receipt of your emailed letter dated August 10, 2010 entitled "Concurrence with Revised Corrective Action Plan" dated July 19, 2010 ("July CAP") submitted by RRM, environmental consultant for Mr. Douglas Gustafson, the responsible party for cleanup on behalf of the Tamarind Group.

Your letter of August 10, 2010 also states that, "Water Board staff also reviewed the cover letter to the July CPA dated July 19, 2010 and submitted by Mr. Timothy Daily, counsel to the responsible party. Water Board staff concurs with the scope and the contents of the cover letter".

While we appreciate the ongoing efforts of the Water board to continue moving the project forward, we are confused. Your letter cites the Water Board letters of October 19, 2009 and December 31, 2009, and July 19, 2010 CAP, but not our letter to you of July 23, 2010. Ever since we have been involved with the Water Board for over 10 years, the Water Board has scrupulously documented and commented on both the responsible parties' and ours and our experts' letters to the Water Board. However, this time you made no mention of our July 23, 2010 comments in your letter of August 10, 2010. Perhaps this was merely an oversight.

We took great care to answer your questions to me pursuant to our telephone conversations on July 14 and 19, 2010, in our July 23, 2010 letter to you. We are all in accordance that neither Ms. McCoy nor her parents are the responsible parties or dischargers. Therefore, there will be no financial participation on behalf of Ms. McCoy and there is no agreement in place to that fact. Accordingly we specifically stated that Ms. McCoy did not agree to pay for lifting the house, nor grading, permitting, planning, connecting or reconnecting

utilities, Mr. John Robertson
August 12, 2010
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utilities, etc., as has been described in the Discharger/Responsible Party Gustafson contractor's CAP revisions. There is no writing documenting this or any such agreement. You told me that you want any agreements in writing.

Therefore, we are perplexed as to how the Water Board, yourself, or staff can concur with a cover letter and CAP that includes such actions being performed by Ms. McCoy, when she is not. Since she will not be performing those actions, the CAP is inaccurate and incomplete.

Before we can comment on either the June 1, 2010 CAP or the July 19, 2010 CAP, or your August 10, 2010 letter, we would appreciate a response to our July 23, 2010 letter. As explained in our letter, the CAPs will need to be revised to remove Ms. McCoy as a financial participant. Again, we appreciate the Water Board's continuing efforts and look forward to resolution.

Very truly yours,

Kathleen P. Clack

c: Cecelia McCoy
Roger Briggs

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August 24, 2010

Mr. John Robertson
Groundwater Protection Section Manager
California Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, California 93401

Certified Mail 7003 0500 0001 7884 4803

RE: Former Grove Laundry Site and 164 12th Street

Dear Mr. Robertson:

Since we wrote on August 12, 2010, we haven't heard from the Water Board regarding our letter of July 23, 2010. We are concerned that the Water Board's August 10, 2010, letter concurring with RRM's latest CAP and its cover letter might result in the Water Board inadvertently enforcing measures that the Water Board incorrectly believes Ms. McCoy agreed to, which, as discussed our letters, she did not. Her lack of agreement necessarily requires changes to the scope of work that RRM will be performing and the Water Board's enforcement actions.

Ms. McCoy would greatly appreciate knowing the direction of the Water Board's enforcement actions in specific detail. Your response to our letters of July 23 and August 12 will help clarify matters.

We thought perhaps copies of our last two letters might be helpful to have immediately at hand for your convenience, in case they have been misplaced or lost along the way. As always, we look forward to the Water Board's continuing resolution efforts and your earliest reply.

Sincerely,

Kathleen P. Clack

Enclosures

c: Cecelia McCoy
Roger Briggs

KATHLEEN P. CLACK

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September 10, 2010

Mr. John Robertson
Groundwater Protection Section Manager
California Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, California 93401

Certified Mail 7009 0282 0002 0287 5208

RE: Former Grove Laundry Site and 164 12th Street

Dear Mr. Robertson:

Our letter of August 12, 2010 has not been answered as of this date. This is a concern, as it is essential that the Regional Water Board (herein RWB) respond, due to the fact the RWB has referenced the responsible party's suggestion of a CAP, as having merit for the former Grove Laundry contaminated site. There has been no agreement on behalf of Ms. McCoy that the responsible party be allowed to decrease his liability by shifting cleanup obligations to his neighboring property owner, Ms. McCoy. The inability of RWB to move forward to enforce a "Corrective Action Order" issued four years ago in 2006, has required Ms. McCoy to live with the contamination for years. It is also understood Ms. McCoy's sole link to the responsible party, is the fact her family has owned the neighboring property, which has required her, and the property to remain in a vegetative or a state of limbo for years. That state of limbo has denied her of her rights to peace and enjoyment of her property, while her property value has been allowed to decrease because enforcement has not been imposed. Ms. McCoy has had neither control nor jurisdiction to compel the responsible party to clean up the contamination generated on his property, and through his inaction has allowed the contamination to flow or to leach into Ms. McCoy's property, while his property was producing an income for Mr. Gustafson, while Ms. McCoy's property has depreciated.

We believe the RWB must be required to abide by their "Corrective Action Order" that is now four years old, the RWB having identified the responsible party, which was not Ms. McCoy. If in fact the RWB shifts the burden of liability from an identified responsible party (herein known as "discharger"), to an innocent neighboring property owner, the RWB would intentionally deflect their enforcement accountability, demonstrating an inability to take action to enforce any contamination cleanup, thereby rendering the RWB as ineffective. This requires us to request a copy of all the supporting regulations, laws, policies internal or statewide with a copy of all of the correspondence from the discharger that justifies any consideration of issuing a CAP, shifting the burden of contamination cleanup to an innocent property owner, with any additional

Mr. John Robertson
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information that defines how the shifting of responsibility will be reimbursed to the innocent property owner. It is clear cleanup standards and enforcement of contamination must be borne solely by the responsible party, identified by the RWB as the discharger. We also require a copy of any standard(s) or regulation(s) that a known contamination site has been allowed to flow or leach into another person's property, and after 11 years, RWB can determine either all or a portion of a contamination cleanup should not be solely borne by the discharger.

This then requires that we require the RWB to provide an itemized accounting of the cost for the past 11 years, during which Ms. McCoy was required to wait for enforcement to have the contamination cleaned up. Is there a rule or regulation that gives authority to an employee to shift the liability burden, thereby essentially rewarding an identified discharger?

Due to the fact, Ms. McCoy continues to be a victim of the contamination, and due to the fact, we have not agreed to any CAP we expect the production of documents and accounting files to be provided at no expense to her. It is our intent to receive the requested information within 10 days of receipt of our request. Please let me know if you require me to file our request for the documents under the California Public Records Act Govt. Code §§ 62580 - 6276.48; either way if your office can provide any clarification that may expedite our understanding as to how and why a CAP was even being considered we would be interested.

I thank you for your time and consideration regarding our request, especially since we have not had any response to our previous correspondence.

Very Truly Yours,

Kathleen P. Clack

c: Cecelia McCoy
Roger Briggs
State Water Resources Control Board

KPC:feh

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September 23, 2010

Mr. John Robertson
Groundwater Protection Section Manager
California Regional Water Quality Control Board
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San Luis Obispo, California 93401

Certified Mail 7009 2820 0002 0287 5222

RE: Former Grove Laundry Site and 164 12th Street

Dear Mr. Robertson:

I write this letter as our attempt to clarify our position relating to the California Regional Water Quality Control Board's oversight of the former laundry site and 164 12th Street in the city of Pacific Grove.

Description and History of the Site:

1. First written complaint about oil on the downhill property due to oil from the laundry property occurred in 1986.
2. The Monterey County Health Department directed a cleanup of contaminate soil.
3. One possible method for dealing with the soil contamination was to install monitoring wells to track contamination. [MW1 is only a monitoring well not a sump]
4. Another method was to construct an underground impermeable slurry wall to contain the contamination with a collection system enabling the contamination to be pumped out, which was not a selected option in this case.
5. A third method required the removal of the source as an alternative.
6. The property owner of the laundry property was to remove all visible contamination.

The Laundry property owner did not remediate the downhill property.

1. Remediation efforts did not protect the downhill property, and only served to hinder the location of the source for the contamination.
2. The Laundry property was sold prior to removing the downhill contamination.
3. A report was issued stating the extent of the contamination could be tracked back to 1987.
4. In 1993 a demolition permit was obtained to demolish ½ of the closed Laundry building in an attempt to remove the bunker oil only to facilitate the sale of the property.

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5. Removal of ½ of the laundry building was completed as it was thought it inhibited the investigation and removal of the soil contamination, which then caused the contamination to seep into the groundwater without any protection for surrounding property owners.
6. The contamination source was identified. However, no interim measures were taken to prevent further contamination. This allowed the accumulation of contaminants. Allowing accumulation of contaminants then percolated to the surrounding properties creating victims of the source of contamination.

We are sorry if you feel we are restating the obvious. But when the project manager for the Regional Water Board outlined a possibility that Ms. McCoy could assume costs for rehabbing her property supporting the cleanup efforts for her property, it caused us concern. Ms. McCoy cannot assume any liability to clean up her contaminated property. Her property has been devalued because of the contamination. If Ms. McCoy is required to assume costs for any work directly or indirectly connected to the contamination on her property, she will be held liable for any completed work on her property.

The contamination source and discharger have been identified, requiring the responsible discharger to assume all costs for cleaning up the contamination, regardless of cost requirements to make the surrounding property owners whole. The surrounding property owners are victims of a contamination source that has not been contained and to which the identified discharger has deferred compliance for years. Allowing the identified discharger to defer cleanup has allowed enforcement efforts to appear comfortable with transferring accountability for the cleanup to surrounding property owners.

As a result the contamination source has been allowed to concentrate beneath floating oil and has yet to be stabilized. The oil that splashes on Ms. McCoy's house during the rainy season is free floating in a trench, whereas MW1 is covered with a cap. If an interim measure is to be expanded from oil removal to a removal of the entire monitoring well as a method to decrease the contamination, then we require full disclosure of the Corrective Action Plan (CAP) revisions associated with the entire remediation plan. We have not been given any sort of plan if any contamination is found beneath the pipe. If in fact this is part of a defined plan for corrective action then the surrounding property owners must be allowed to evaluate any proposed plan offered to mitigate the contamination in its entirety.

The removal of MW1 pipe is an ad hoc action with no plan. As a result, there is no analysis of what is beneath and around the pipe as a free standing unit. Without any information to the contrary, the removal of the pipe could cause a release of oil into the environment of the surrounding properties, eventually into the Monterey Bay Sanctuary, creating more victims. No one even saw MW1 until a few years ago much less know anything about it except that it contains about 6 feet of oil. Instead of being a protective measure, removal of the pipe itself is a threatened release action. The Regional Water Board would be liable for the damages.

The pipe is a vessel approximately six feet deep holding viscous oil since 1988. It abuts the footing of the former Grove Laundry and is about 2+ feet from Ms. McCoy's house. A spill

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would be a disaster. It could be the proverbial finger in the hole of the dike. If it were simply the originally proposed temporary interim measure of removal of oil, it would be a different situation. But that is not what has been proposed. We cannot remove the pipe until we know what effect the removal will have.

Only the removal of the oil was proposed two years ago as an emergency action after the cap on top of MW1 was removed. There is no statutory authority for removal of the pipe as a separate action without a plan.

It just makes good sense to allow the surrounding property owners to understand any plan proposed by the Regional Water Board and how that plan will affect their property; as they are the victims, not the contamination discharger. In addition, if the Regional Water Board is reopening or revising their mandates for cleanup, it gives the appearance that there has been a major change in methodology, which calls into question, why alter requirements after 11 years, and then, does this fact serve notice to the Regional Water Board of noncompliance of enforcement under their jurisdiction.

Consequently, the communicated assumption that Ms. McCoy agreed or was willing to pay for some portion of the cleanup triggered a major concern for us, which decreased our willingness to communicate orally with the Regional Water Board project manager. Perhaps the disclosure of what prompted that communication, and who communicated that understanding could improve our confidence in the neutrality of the Regional Water Board's project manager. I understand you have proposed conference calls to resolve some of the issues. But with so much misinformation floating around in order for us to bridge our concerns we need to understand what precipitated any understanding that enabled the transference of accountability for the contamination from the identified discharger, to the victims. It is not our intent to appear argumentative. But we are still waiting for enforcement of the "Corrective Action Order" of 2006.

We repeat the past three unanswered letters. Ms. McCoy will pay for nothing. By requiring Ms. McCoy to pay for rehab, the Water Board has in fact defined the cleanup method for Ms. McCoy as well as directly contradicted its Corrective Action Orders. The discharger is responsible for cleanup in a manner protective of the house. Ms. McCoy is not accepting any credit from the discharger for work that the discharger is required to perform. Please provide that statute that gives the project manager the authority to require the victim to rehab property within a timeline that benefits the discharger. After all, this victim did not invite the oil to reside under her house.

A new CAP is required immediately. The July 19, 2010 CAP is null and void because it includes the victim as the discharger and a financial participant. Therefore the CAP needs to delete the victim's participation and needs to be resubmitted for approval by all parties.

Please provide written answers to our previous correspondence and the requested information noted in this letter as soon as possible, because we have been waiting for a very long

Mr. John Robertson
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Page Four

time for enforcement to move forward.

Let there be no ambiguity. We have not nor have we in the past refused access to the Regional Water Board or assessment contractors to Ms. McCoy's property. In fact I would like to take this time to also state that we were available on the dates previously identified by the discharger for access to Ms. McCoy's property.

The reason the situation has become somewhat strained is due to the fact that Ms. McCoy is waiting to be made whole, which means she is merely exercising her rights to evaluate any proposed methodically or plans to contain and cleanup the contamination of her property. Ms. McCoy must be made whole by nothing less than a complete remediation of her property.

I wish to thank you for your time and consideration regarding this matter and look forward to your written response.

Sincerely,

Kathleen P. Clack

Enclosures

c: Cecelia McCoy
Roger Briggs
State Water Resources Control Board
Attorney General