

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ACL ORDER NO. R5-2006-XXXX

ADMINISTRATIVE CIVIL LIABILITY ORDER  
IN THE MATTER OF

MR. FRANK GUINTA,  
MRS. SHARI GUINTA,  
MR. JAMES RAMSEY, AND  
MRS. MARILYN RAMSEY

FRANK'S ONE STOP  
SAN JOAQUIN COUNTY

This order for Administrative Civil Liability (hereafter ACL Order or Order) is issued to Mr. Frank and Mrs. Shari Guinta, and Mr. James and Mrs. Marilyn Ramsey, (hereafter collectively known as the Dischargers) based on provisions of California Water Code (CWC) Section 13350, which authorizes the imposition of an Administrative Civil Liability (ACL).

The California Regional Water Quality Control Board, Central Valley Region, (Regional Board) finds, with respect to the Dischargers' acts, or failure to act, the following:

**Discharger Liability**

1. In August, 2003, the Regional Board issued Cleanup and Abatement Order (CAO) No. R5-2003-0713 to Mr. Frank and Mrs. Shari Guinta, Guinta Enterprises, Mr. James and Mrs. Marilyn Ramsey, which required cleanup of a release of petroleum from one or more underground storage tanks (USTs) at Frank's One Stop, a gasoline service station located at 2072 West Yosemite Avenue, San Joaquin County, California.
2. On 31 December 2005, the Regional Board Executive Officer issued Administrative Civil Liability Complaint No. R5-2005-0530 to Mr. Frank and Mrs. Shari Guinta, Guinta Enterprises, Mr. James and Mrs. Marilyn Ramsey for failure to comply with requirements of CAO No. R5-2003-0713.
3. James and Marilyn Ramsey were identified as responsible parties in CAO No. R5-2003-0713, which described the basis for liability as follows: "James and Marilyn Ramsey are subject to this (CAO) because they owned the property at the time the tank system caused or permitted waste to be discharged to waters of the state where it has created a condition of pollution or nuisance." (CAO No. R5-2003-0713, page 1, paragraph 2.)
4. James and Marilyn Ramsey did not petition CAO No. R5-2003-0713 to the State Water Resources Control Board (State Water Board). At the request of Regional Board staff on 19 January 2006, James Ramsey submitted evidence of a Chapter 7 bankruptcy finalized in 1999. Previously in a phone conversation with Regional Board staff on 19 May 2003, Mr. Ramsey's attorney Richard Hastings contended that this Bankruptcy protects Mr. Ramsey from the administrative civil liability herein. However the Bankruptcy Code at

11 U.S.C. § 523(a)(7) explicitly recognizes civil penalties as a category of claims that is not dischargeable against an individual. No other information was submitted by James or Marilyn Ramsey to indicate that CAO No. R5-2003-0713 was issued to them in error. Therefore, James and Marilyn Ramsey are persons appropriately liable pursuant to this ACL Order for failure to comply with CAO No. R5-2003-0713.

5. Frank and Shari Guinta and Guinta Enterprises were also identified as responsible parties in CAO No. R5-2003-0713. The CAO provided the basis for identifying Frank and Shari Guinta and Guinta Enterprises as responsible parties as follows: "Frank and Sherri Guinta, dba Guinta Enterprises, operated the fueling station continuously at the site. In 1996, Frank Guinta purchased the real property at a public tax auction. Frank and Shari Guinta currently own the real property at 2072 West Yosemite Avenue, in Manteca, San Joaquin County (Site). Frank and Shari Guinta, and Guinta Enterprises, are subject to this Order because they operated the tank system that caused or permitted waste to be discharged to waters of the state where it has created a condition of pollution or nuisance." (CAO No. R5-2003-0713, page 1, paragraph 3.)
6. Frank Guinta did not petition CAO No. R5-2003-0713 to the State Water Board and there has been no additional information provided by Frank Guinta to indicate that the CAO was issued to him in error. Therefore, Frank Guinta is appropriately liable pursuant to this ACL Order for failure to comply with CAO No. R5-2003-0713.
7. Shari Guinta did not petition CAO No. R5-2003-0713 to the State Water Board. However, based on evidence obtained following the issuance of the CAO and ACL Complaint No. R5-2005-0530, it appears Shari Guinta did not own the property at 2072 West Yosemite Avenue in 2003. According to an Interspousal Grant Deed registered at the San Joaquin County Records Office, on 7 April 1998, Shari Guinta quitclaimed her interest in the property to Frank Guinta. Nevertheless, Shari did have a community property ownership interest in the property between 1996 and 1998 through her marriage to Frank Guinta. As a former owner of property on which there has been a release from a UST, Shari was appropriately identified as a responsible party in CAO R5-2003-0713. There has been no additional information provided by Shari Guinta to indicate that the CAO was issued to her in error. Therefore, Shari Guinta is appropriately liable pursuant to this ACL Order for failure to comply with CAO No. R5-2003-0713.
8. Guinta Enterprises did not petition CAO No. R5-2003-0713 to the State Water Board. Frank Guinta, in a letter dated 31 January 2006 responding to ACL Complaint No. R5-2005-0530, challenged the accuracy of the finding that Guinta Enterprises is a responsible party subject to the requirements of CAO No. R5-2003-0713. Staff have confirmed on the State Business Portal that Guinta Enterprises (C2491863) is a duly

authorized corporation in the State of California with Frank Guinta Jr. (AKA Frank Guinta) listed as the Agent for Service of Process. Staff have not been able to verify the involvement of Guinta Enterprises at the subject site. Therefore, Guinta Enterprises is not included as a person liable pursuant to this ACL Order for failure to comply with CAO R5-2003-0713.

### **Background**

9. On 21 May 1992, San Joaquin County Environmental Health Department (SJCEHD) submitted an Unauthorized Release (Leak) Report for a gasoline leak from the fuel dispensers detected at 2072 West Yosemite Avenue, San Joaquin County, California (Site). SJCEHD directed the Dischargers to investigate the release to soil and groundwater which included gasoline, diesel, benzene, toluene, ethylbenzene, xylenes, methyl tertiary butyl ether (MtBE), tertiary butyl alcohol, 1,2-dichloroethane (1,2-DCA), and tetrachloroethylene (PCE). Soil contamination was subsequently investigated and found to be limited to the source areas (USTs and piping/dispensers).
10. Despite numerous directives from SJCEHD between 1992 and 1997 to investigate the petroleum release and remove leaking tanks, the Dischargers conducted limited investigations but no remedial action. On 17 July 1997, the Dischargers' application to the State Water Board UST Cleanup Fund (CUF) was accepted. A limit of \$1,500,000 in reimbursement costs is legislatively mandated.
11. In June 1998, Remedy Construction removed two 10,000-gallon diesel USTs and four 10,000-gallon gasoline USTs from the Site. During excavation, soil staining and hydrocarbon odor were observed in the excavation. Soil and groundwater samples confirmed the presence of TPHg, TPHd, benzene, and MtBE in the tank excavation.

12. From 1999 to 2002, the maximum concentrations of pollutants in groundwater were reported as:

Constituent	Maximum Concentration (µg/L)	Numerical Water Quality Limits (µg/L)
Total Petroleum Hydrocarbons as gasoline	280,000	5 <sup>1</sup>
Total Petroleum Hydrocarbons as diesel	70,000	100 <sup>1</sup>
Benzene	1,500	0.15 <sup>2</sup>
Ethylbenzene	4,500	29 <sup>1</sup>
Toluene	18,000	42 <sup>1</sup>
Xylenes	25,000	17 <sup>1</sup>
Methyl Tertiary Butyl Ether (MtBE)	8,100	5 <sup>1</sup>
Tertiary Butyl Alcohol	1,100	12 <sup>3</sup>
1,2 Dichloroethane (1,2-DCA)	1.1	0.4 <sup>2</sup>
Tetrachloroethylene (PCE)	26	0.06 <sup>2</sup>

1 - Taste & Odor Threshold

2 - California Public Health Goal

3 - California State Action Levels

13. In August 2000, one groundwater extraction well and one air sparge well were installed to conduct a pilot study for the feasibility of using these technologies at the Site. In September 2000, one additional extraction well was installed, three piezometers were converted to extraction wells, and the groundwater pump and treat system began operating at the Site as an interim remedial action.
14. In September 2000, 12 domestic wells were discovered as impacted by MtBE from the site and were disconnected from the residences (*Report of Area Well Sampling*). Temporary bulk water supply tanks were installed at each home and water delivery was initiated by the Dischargers. By January 2002, 11 wellhead treatment systems were installed to protect public health at residences with impacted wells. One property owner refused to allow installation of wellhead treatment on a domestic well serving his tenants.
15. In a letter dated 6 September 2001, the SJCEHD approved a remedial action plan consisting of soil vapor extraction/air sparging (SVE/AS), additional extraction wells for the pump and treat system, and domestic wellhead treatment. In January 2002, the SVE/AS system was installed and began operating.
16. On 1 January 2003, the Dischargers' consultant turned off the SVE/AS system and, after spending most of the UST CUF allotment of \$1,500,000, declared that insufficient State Cleanup Funds remained to operate the remedial system. On 25 February 2003 SJCEHD issued a directive to restart the remedial system immediately. The Dischargers did not comply to the SJCEHD directive.

17. In March 2003, the Regional Board obtained lead agency status from SJCEHD, and issued a draft CAO on 3 April 2003, tentatively identifying Frank Guinta and Guinta Enterprises as responsible parties.
18. Subsequently, in a meeting with Frank Guinta's representatives (son John Guinta and Don Thompson, acting on Frank Guinta's behalf in his absence), Frank Guinta's consultant AquaScience Engineers Inc. and SJCEHD staff on 9 April 2003, Regional Board staff discussed the draft CAO. Frank Guinta's representatives stated that James and Marylin Ramsey, as owners of the property at the time of the discharge, should also be named as Dischargers. Staff reviewed the record and agreed to send a second draft CAO, issued to the Guinta's and the Ramsey's on 30 April 2003. On 18 August 2003, the Regional Board Executive Officer issued CAO No. R5-2003-0713, which required the Dischargers to complete the following tasks.
  1. *Continue maintenance and testing of wellhead treatment systems for twelve (12) domestic water supply wells impacted by polluted groundwater with MtBE. Analytical results from water samples collected from an existing on-site domestic water supply well system must be included in future reports.*
  2. *Continue required testing of all nearby domestic and irrigation wells, and any additional wells deemed necessary in the future, as required by revisions to the Regional Board Monitoring and Reporting Program.*
  3. *Continue operation of the on-site soil vapor extraction/air sparging system to treat the polluted groundwater.*
  4. *By **15 September 2003**, submit a workplan (Workplan) to complete the delineation of the lateral and vertical extent of pollution.*
  5. *By **15 November 2003**, submit an Interim Effectiveness Report (IER) evaluating the existing soil vapor extraction/air sparging (SVE/AS) system in the source area.*
  6. *By **1 February 2004**, submit an Additional Site Characterization Report (ASCR) providing information from the implementation of the approved Workplan assessing the vertical and lateral extent of the groundwater pollution in all impacted aquifer zones.*
  7. *By **1 April 2004**, submit a Final Corrective Action Plan (CAP).*
  8. *Within **60 days** of Executive Officer approval of the Final Corrective Action Plan, the Dischargers shall implement the approved remedial actions.*
  9. *Within **120 days** of Executive Officer approval of the Final Corrective Action Plan, submit a report describing the status and results of the cleanup work (Cleanup Implementation Report).*
  10. *Conduct monitoring of the existing wells and any additional wells in accordance with attached MRP No. R5-2003-0713 or any revised MRP issued by the Executive Officer.*
19. Emergency private wellhead treatment systems maintenance, sampling, and analyses (Tasks 1 and 2) are currently conducted at the State's expense and compensated by

State funds from the State Water Resources Control Board's Emergency, Abandoned and Recalcitrant (EAR) Account under Regional Board staff oversight of contractors and laboratory contracts. Currently \$100,000 has been allocated for emergency funds through June 2006. Regional Board staff hours for contractor oversight and contracting are not compensated by the EAR Account, and exceeded 100 hours in 2005.

20. The SVE/AS treatment system (Task 3) was restarted by the Discharger's consultant in May 2003 and ran continuously until low soil gas pollution levels justified treatment system shutdown in December 2003.
21. The IER and Workplan (Tasks 4 and 5) were submitted and approved by Regional Board staff in 2003, although the Workplan was never implemented.
22. Frank Guinta requested and received three extensions to the ASCR and CAP (Tasks 6 and 7) in 2004, citing lack of funds, and stated that they were in the process of obtaining a loan on the property to continue the work. To date, the ASCR and the CAP have not been submitted to the Regional Board.
23. Tasks 8 and 9, which are contingent upon completion of the CAP (Task 7), have not been accomplished due to failure to submit the CAP.
24. Quarterly Monitoring (Task 10) continued until the First Quarter of 2005, when all work stopped on 31 January 2005.
25. The Dischargers have failed to comply with CAO No. R5-2003-0713, in that they have not cleaned up and abated the effects of the discharge. Over the next two years, \$400,000 has been allocated from the State Emergency, Abandoned and Recalcitrant (EAR) Account to monitor and maintain well head treatment on the impacted private water supply wells, conduct quarterly monitoring of wells per MRP No. R5-2003-0713 or any revised MRP, and submit the ASCR and CAP. Additionally, Regional Board and State Water Board staff time will be required to oversee work funded by the EAR Account.

### **VIOLATIONS**

26. To date, the Dischargers have not complied with the CAO. By failure to maintain and test the domestic wellhead treatment systems, the Dischargers have created a need for State intervention on behalf of the domestic well users. State emergency funds are currently being expended to mitigate the effects of the Discharger's refusal to maintain and test the domestic wellhead treatment systems. Additionally, not all CAO-required reports have been submitted.
27. The Dischargers have failed to:

- Conduct the continuous maintenance of wellhead treatment systems and submit reports for sampling required for domestic water wells impacted by the groundwater plumes, since 31 January 2005 (Tasks 1 and 2).
  - Submit three quarterly monitoring reports (due 1 May 2005, 1 August 2005, and 1 November 2005) (Task 10).
  - Submit the Additional Site Characterization Report providing information from the approved *Workplan*, to assess the vertical and lateral extent of petroleum hydrocarbons, including Methyl tert-Butyl Ether (MtBE) and 1,2-Dichloroethane (1,2-DCA) pollution emanating from Underground Storage Tanks (USTs) removed from the site (ASCR, due 1 February 2004) (Task 6).
  - Submit a Corrective Action Plan (CAP, due 1 April 2004) (Task 7).
28. The Dischargers failed to comply with the requirements of their deadline extensions and have benefited financially from the delays. Each time an extension was requested, Regional Board staff met with Frank Guinta and verbally emphasized the potential for penalties that would be calculated back to the original dates required under CAO No. R5-2003-0173. Additionally, all letters granting extensions from the Regional Board reiterated the potential for penalties for each incidence of non-compliance, including daily amounts per violation under California Water Code Section (CWC) 13350, calculated from the original dates due as specified in CAO No. R5-2003-0713. At each of the three meetings on 12 March 2004, 26 July 2004, and 3 December 2004 respectively, Frank Guinta indicated that he had read CAO No. R5-2003-0713 and understood the meaning of penalties for failure to complete the Tasks required under CAO No. R5-2003-0713.
29. On 16 November 2004, Regional Board staff issued a Notice of Violation (NOV) for failure to meet the last extension, and requested a meeting by 3 December 2004. During that meeting, Regional Board staff again verbally stressed that the consequences of failure to comply with the CAO No. R5-2003-0713 might include penalties. Subsequently, during the meeting, the Frank Guinta agreed to comply with the CAO.
30. On 31 January 2005, Frank Guinta submitted a letter to Regional Board staff stating that no further work would be funded by him. Regional Board staff immediately contacted and informed Frank Guinta that, as a consequence of his decision, formal enforcement action against him was imminent.
31. On 3 February 2005, Frank Guinta submitted a faxed request for a Regional Board determination of No Further Action (NFA) necessary to indicate that the service station Site was clean and to allow the Frank Guinta to sell the property. Frank Guinta also offered to reimburse the State for the cost of the cleanup after sale of the property. In a letter dated 16 May 2005, Regional Board staff replied to Frank Guinta that a NFA letter would release the Dischargers from further responsibility for the unauthorized release, that the Dischargers are continuing to violate CAO R5-2003-0713, and that failure to comply with

CAO R5-2003-0713 subjects the Dischargers to civil liabilities (penalties) for each day of violation.

32. State EAR Account funds have been, and are continuing to be, spent to maintain and sample domestic wellhead treatment systems impacted by the Dischargers' groundwater plume. Since 31 January 2005, Regional Board staff has expended significant staff-hours in contracting engineering services for, and conducting oversight of, the wellhead treatment systems, including maintenance, sampling, and reporting to property owners and residents of the neighborhood. In addition to the domestic wellhead treatment systems maintenance, the reports as specified in the CAO are necessary to determine the extent and migration pathways of groundwater pollution beneath the site.
33. In violation of CAO R5-2003-0713, the Dischargers have failed to and continue to fail to maintain and sample the domestic wellhead treatment systems, characterize the lateral and vertical extent of petroleum hydrocarbon impacts to groundwater, and implement corrective action measures. As stated in Finding 30, the Dischargers refused to maintain the domestic wellhead treatment systems, submit quarterly monitoring reports, characterize the lateral and vertical extent of petroleum hydrocarbon impacts to groundwater, and implement corrective action measures due to lack of funding. The 31 January 2005 letter from Frank Guinta to Regional Board staff also requested that the State implement the requirements (conduct the work) of the CAO expeditiously under the EAR account, and said the State would be reimbursed for EAR Account expenses of the cleanup after the sale of the property.
34. On 31 December 2005, the Executive Officer issued Administrative Civil Liability (ACL) Complaint No. R5-2005-0530 to the Dischargers for violation of CAO No. R5-2003-0713.
35. ACL Complaint No. R5-2005-0530 was not paid or settled.
36. As of the date of this Order, the Dischargers have failed to comply with CAO No. R5-2003-0713.

### **REGULATORY CONSIDERATIONS**

37. By the acts and omissions cited above, the Dischargers have violated the Regional Board's CAO No. R5-2003-0713 Order, which was issued pursuant to CWC Section 13304. CWC Section 13304(a) states, in part:

*Any person who has discharged or discharges waste into waters of this state in violation of any waste discharge requirement or other order or prohibition issued by a regional board or the state board, or who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be,*

*discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board, clean up the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including, but not limited to, overseeing cleanup and abatement efforts.*

38. Due to the recalcitrance of the Dischargers, the Regional Board is currently conducting work required by the CAO No. R5-2003-0713. Section 13304(b)(1) of the CWC states:

*The regional board may expend available money to perform any cleanup, abatement, or remedial work required under the circumstances set forth in subdivision (a), including, but not limited to, supervision of cleanup and abatement activities that, in its judgment, is required by the magnitude of the endeavor or the urgency for prompt action to prevent substantial pollution, nuisance, or injury to any waters of the state. The action may be taken in default of, or in addition to, remedial work by the waste discharger or other persons, and regardless of whether injunctive relief is being sought.*

39. CWC Section 13304(c)(1) states, in part:

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

40. CWC Section 13350 states, in part:

*Any person who (1) violates any cease and desist order or cleanup and abatement order hereafter issued, reissued, or amended by a regional board or the state board, or (2) in violation of any waste discharge requirement, waiver condition, certification, or other order or prohibition issued, reissued or amended by a regional board or the state board, discharges waste, or causes or permits waste to be deposited in or on any waters of the state, or (3) causes or permits any oil or any residual product of petroleum to be deposited in or on any of the waters of the state, except in accordance with waste discharge requirements or other actions or provisions of this division, shall be liable civilly, and remedies may be proposed, in accordance with subdivision (d) or (e) . . . .*

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

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

*“(B)... the civil liability shall not be less than one hundred dollars (\$100) for each day in which the violation occurs.”*

41. As of 15 December 2005, the Dischargers have been in violation of CAO No. R5-2003-0713 for failure to implement the following Tasks:

- a. Maintenance of wellhead treatment, which is 319 days late and is currently being done by the State. (Failure to submit reports for routine sampling required for domestic water wells impacted by the groundwater plumes is included under quarterly reports)
- b. Submittal of the first quarter 2005 monitoring report, which is 228 days late.
- c. Submittal of the second quarter 2005 monitoring report, which is 136 days late.
- d. Submittal of the third quarter 2005 monitoring report, which is 48 days late.
- e. Submittal of the Additional Investigation Report, which is 682 days late.
- f. Submittal of the The Corrective Action Plan, which is 623 days late.

42. The total number of days of the six violations is 2,036. Based on a statutory maximum penalty of \$5,000 per day per violation, the maximum liability for these 2,036 violations of CAO No. R5-2003-0713 is ten million, one hundred eighty thousand dollars (\$10,180,000). Based on a statutory minimum liability amount, \$100.00 per day per violation, the minimum liability for these 2,036 violations of CAO No. R5-2003-0713 is two hundreded three thousand, six-hundred dollars (\$203,600).

43. CWC Section 13327 states:

*In determining the amount of civil liability, the regional board . . . shall take into consideration the nature, circumstance, extent, and gravity of the violation or violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and, with respect to the violator, the ability to pay, the effect on ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters as justice may require.”*

44. With respect to the Dischargers violations of CAO No. R5-2003-0713, the Regional Board has determined the following with respect to the factors in CWC Section 13327:

The nature of the violation is the failure to maintain the wellhead treatment systems and routinely sample domestic wells, submit five technical reports (an additional site

characterization report, a corrective action plan, and three quarterly monitoring reports) in violation of a Cleanup and Abatement Order issued pursuant to CWC Section 13304.

The circumstances of the violation are such that the Dischargers were aware of the requirements to sample and maintain domestic wellhead treatment systems, submit quarterly reports, conduct additional investigations to define the vertical and lateral extent of pollution, and submit a corrective action plan, in order to assess the impact of the UST release to groundwater and mitigate all threats to public health and the environment. Frank Guinta is aware of the requirements of CAO No. R5-2003-0713 and has stated his understanding of the CAO and the consequences for failure to comply with the CAO in meetings with Regional Board staff on 12 March 2004, 26 July 2004, and 2 December 2004 but has failed to comply.

The extent of the violation is that the Dischargers were required, pursuant to a CWC Section 13304 Cleanup and Abatement Order, to conduct wellhead treatment systems maintenance, routinely sample domestic wells, complete the additional site investigation, submit a corrective action plan and submit those five technical reports described above. These reports have not been submitted to date.

The gravity of the violation is that the Dischargers failed to maintain domestic well treatment systems, submit quarterly reports, conduct additional investigations to define the vertical and lateral extent of pollution, and submit a corrective action plan, in order to assess the impact of the UST release to groundwater and mitigate all threats to public health and the environment. As a consequence of the Dischargers actions, the Dischargers have created a need for State intervention on behalf of the domestic well users and Regional Board staff have assumed active participation through the Emergency, Abandoned and Recalcitrant Account to direct the work needed to mitigate the threat that the hydrocarbon release poses to the neighbors on domestic well water and the waters of the State of California. State funds are being spent (estimated to be at least \$500,000 for the next 3 years) to mitigate adverse actions caused by the Dischargers. Without expenditure of State funds to maintain the treatment systems, economically disadvantaged residents of the neighborhood on domestic wells near the Site could be at risk for exposure to levels of MtBE greater than the highest water quality objective (California Maximum Contaminant Levels, or MCLs).

With respect to the violator, it has not been demonstrated that there is an inability to pay or to continue in business. The Dischargers were notified of the opportunity to provide such information when the ACL Complaint was issued. As of 1 August 2006, only Frank Guinta and Shari Guinta have submitted financial information. An economist with the State Water Board's Office of Statewide Initiatives has reviewed Frank Guinta's and Shari Guinta's financial documents and determined that they have not proven an inability to pay or to continue in business. The Regional Board agrees with this finding.

With respect to voluntary cleanup efforts, the Dischargers have not initiated any voluntary cleanup.

With respect to degree of culpability, the Dischargers had exclusive control of the gasoline station operations. The Dischargers were aware of the requirements to conduct wellhead treatment systems maintenance, routinely sample domestic wells, complete the additional site investigation, submit a corrective action plan and submit those five technical reports and chose not to comply. The Dischargers are fully culpable for the violations.

By failing to comply with CAO R5-2003-0713 the Dischargers realized an economic benefit by avoiding the expenditure of funds necessary to fully assess the impacts on water quality from this unauthorized discharge of waste. The Cleanup Fund would then reimburse all legitimate costs. The Dischargers must still submit the technical reports and are delaying the site investigation, so the economic benefit is the interest it has saved on any loans. This is estimated to be no more than \$23,800.

Staff costs including oversight to the State EAR Account and hours since the original due dates in 2004 under the Order, in generation of the ACL Complaint and preparation of the agenda material for the Regional Board presentation are \$90 X 674 hours = \$60,660.

45. A \$400,000 Administrative Civil Liability is appropriate based upon the determinations in Findings 41 and 42 and a review of the factors in Finding 44.
46. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000, et. seq.), in accordance with Section 15321 (a)(2), Title 14, of the California Code of Regulations.
47. Any person affected by this action of the Regional Board may petition the State Water Board to review the action in accordance with Section 2050 through 2068, Title 23, California Code of regulations. The petition must be received by the State Water Board within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions are available at [http://www.waterboards.ca.gov/wqpetition\\_instr.html](http://www.waterboards.ca.gov/wqpetition_instr.html) and will also be provided upon request.

IT IS HEREBY ORDERED that the Regional Water Quality Control Board, Central Valley Region, imposes upon Mr. James Ramsey and Ms. Marilyn Ramsey and Mr. Frank Guinta and Ms. Sheri Guinta administrative civil liability in the amount of \$400,000 in accordance with California Water Code Section 13327 and Section 13350. Payment shall be made within 30 days of the date of this Order, and shall be in the form of a certified check made payable to the *State Water Resources Control Board Cleanup and Abatement Account*. The check shall have written upon it the number of this Order.

ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R5-2006-XXX  
MR. FRANK GUNITA, SHARI GUINTA  
MR. JAMES RAMSEY AND MRS. MARILYN RAMSEY  
FRANK'S ONE STOP  
SAN JOAQUIN COUNTY

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I, PAMELA C. CREEDON, Executive Officer, do hereby certify the forgoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on 27 October 2006.

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PAMELA C. CREEDON, Executive Officer