
Lahontan Regional Water Quality Control Board

December 13, 2018

INTERESTED PERSONS

Public Comment Period – Notice of Proposed Rescission of Cleanup and Abatement Order for Petroleum Discharges from the Former Terrible Herbst No. 68, South Lake Tahoe, El Dorado County – Written Comments Due No Later than 5:00 PM, December 31, 2018

On January 8, 1985, the Lahontan Regional Water Quality Control Board (Water Board) issued Cleanup and Abatement Order No. 85-1 (Order) to Terrible Herbst, Inc. (Discharger) to address violations of waste discharge prohibitions contained within the *Water Quality Control Plan for the Lahontan Region* (Basin Plan). The Order required the Discharger to cleanup and abate discharges of petroleum products to groundwater from the former Terrible Herbst No. 68 located at 2762 Lake Tahoe Boulevard in South Lake Tahoe. On November 23, 1992 and April 24, 1997, Amended Cleanup and Abatement Order Nos. 85-1A1 and 85-1A2 were issued to Terrible Herbst, Inc. to modify the requirements of the Order. On July 9, 2003, Amended Cleanup and Abatement Order No. R6T-1985-0001-A03 was issued to Terrible Herbst, Inc. and Sarbjit Singh Kang (Dischargers) to further modify the requirements of the Order.

As discussed in the enclosed draft document, the Dischargers have complied with the requirements of the Order. Therefore, Water Board staff proposes rescinding Cleanup and Abatement Order No. 85-1, as amended. The enclosed draft document will rescind Cleanup and Abatement Order No. 85-1 and its amendments upon its signature by the Water Board Executive Officer. This public notification letter and the enclosed draft document are also available at the Water Board's website:

http://www.waterboards.ca.gov/lahontan/water_issues/programs/enforcement/

Persons may comment on the proposed rescission by submitting written comments so that they are received no later than 5:00 p.m. on December 31, 2018. Please include "Terrible Herbst No. 68 CAO Rescission" in the subject line and submit by email to RB6enfproceed@waterboards.ca.gov. For those that do not have the ability to email written comments, please include the same subject line, as above, and send your written comments to:

Lahontan Regional Water Quality Control Board
2501 Lake Tahoe Blvd
South Lake Tahoe, CA 96150
Attn. Jeff Brooks

If you have any questions concerning this matter, please contact Jeff Brooks, Senior Engineering Geologist at (530) 542-5420 (Jeff.Brooks@waterboards.ca.gov), or me at (530) 542-5571 (John.Steude@waterboards.ca.gov).

A handwritten signature in black ink that reads "John Steude". The signature is written in a cursive style with a large initial "J".

John Steude, PG
Engineering Geologist

Enclosure: Former Terrible Herbst No. 68 CAO Rescission Proposed Order

cc: Patty Z. Kouyoumdjian/Lahontan Regional Water Quality Control Board
Jeff Brooks/ Lahontan Regional Water Quality Control Board
Elizabeth Beryt/State Water Resources Control Board, Office of Chief Counsel
Interested Party Mailing List

JSS/cdw/T: Terrible Herbst 68 CAO Rescission Cover Letter
File Under: GeoTracker

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

BOARD ORDER NO. R6T-2019-XXXX (PROPOSED)

**RESCISSION OF CLEANUP AND ABATEMENT ORDER NO. 85-1 AND
AMENDMENTS NO. 85-1A1, AND NO. 85-1A2 ISSUED TO TERRIBLE HERBST,
INC. AND AMENDMENT NO. R6T-85-0001-A03 ISSUED TO TERRIBLE HERBST,
INC. and SARBJIT SINGH KANG**

FOR

**DISCHARGING PETROLEUM PRODUCTS TO GROUNDWATERS WITHIN THE
LAKE TAHOE BASIN IN VIOLATION OF WASTE DISCHARGE PROHIBITIONS
CONTAINED WITHIN THE WATER QUALITY CONTROL PLAN FOR THE
LAHONTAN REGION**

_____ El Dorado County _____

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

1. The former Terrible Herbst Gas Station is located at 2762 Lake Tahoe Boulevard in South Lake Tahoe, California, on El Dorado County Assessor's Parcel No. 31-101-11.
2. The *Water Quality Control Plan for the North Lahontan Basin*¹ established the following waste discharge prohibition.

"The discharge of waste that causes violation of any narrative or numeric water quality objective contained in this plan is prohibited."

3. Pursuant to California Water Code section 13050, subdivision (d):

"Waste" includes sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of, disposal.

The discharges of petroleum products, which are considered wastes, violate the prohibition cited, above.

4. On May 16, 1984, Water Board staff was notified by the South Tahoe Public Utility District of petroleum product encountered in an excavation near the intersection of

¹ The *Water Quality Control Plan for the North Lahontan Basin* became effective in 1975.

Blue Lake Avenue and Highway 50 (a.k.a. Lake Tahoe Boulevard) in South Lake Tahoe.

5. The Former Terrible Herbst Gas Station is located in the apparent upgradient direction of groundwater from the site where petroleum was first encountered. This station was the only operating gasoline station in the vicinity at the time petroleum was encountered.
6. On May 17, 1984 and September 12, 1984, the Water Board issued letters requesting Terrible Herbst, Inc. to install groundwater monitoring wells. On November 16 and 17, 1984, three monitoring wells were installed at the site by Terrible Herbst, Inc.
7. On December 11, 1984, during monitoring well development, a layer of petroleum product was observed by both Terrible Herbst, Inc. and Water Board staff on the groundwater surface in the monitoring well, which was apparently downgradient of the fuel tanks located on the gas station site.
8. On January 8, 1985, the Water Board issued Cleanup and Abatement Order No. 85-1 (Order) to Terrible Herbst, Inc. The Order required Terrible Herbst, Inc. (Discharger) to cleanup and abate the effects of petroleum products discharged from an underground fuel tank to groundwaters of the Lake Tahoe Hydrologic Unit at the Terrible Herbst Gasoline Station at 2762 Lake Tahoe Boulevard in South Lake Tahoe.
9. On November 23, 1992, Amended Cleanup and Abatement Order No. 85-1A1 was issued by the Water Board to Terrible Herbst, Inc. This Order required Terrible Herbst, Inc. to test all their underground storage tanks and pipelines, and to submit a report describing measures to identify the extent of contamination, to contain the pollutants to prevent further contamination, and to cleanup and abate the effects of the petroleum product discharge at the Terrible Herbst Gasoline Station.
10. On April 24, 1997, Amended Cleanup and Abatement Order No. 85-1A2 was issued by the Water Board to Terrible Herbst, Inc. The primary reasons the Water Board issued Amended Cleanup and Abatement Order No. 85-1A2 were: (1) the gasoline oxygenate Methyl Tertiary Butyl Ether (MTBE) was detected in groundwater downgradient of the Facility, and (2) the compliance schedule was no longer valid. Amended Cleanup and Abatement Order No. 85-1A2 required the Discharger to submit, in part, (1) a work plan and schedule to delineate the full extent of the contaminated groundwater plume, (2) a report to evaluate the effectiveness of the existing air sparging/soil vapor extraction system, and (3) a quality assurance/quality control plan to document the accuracy and precision of analysis of petroleum constituents and MTBE.
11. On July 9, 2003, Amended Cleanup and Abatement Order No. R6T-1985-0001-A03 was issued by the Water Board to Terrible Herbst, Inc. and Sarbjit Singh Kang. This

Order identified Terrible Herbst, Inc. as the primary responsible party and Sarbjit Singh Kang, who purchased the gasoline station in December 2001, as the secondary responsible party. Amended Cleanup and Abatement Order No. R6T-1985-0001-A03 required Terrible Herbst, Inc. and Sarbjit Singh Kang to take actions to remove floating free product, implement interim and final groundwater and vadose zone remediation, and define the extent of groundwater contamination. Amended Cleanup and Abatement Order No. R6T-1985-0001-A03 required quarterly groundwater monitoring and reporting going forward.

12. Amended Cleanup and Abatement Order No. R6T-1985-0001-A03 established updated Water Quality Objectives pursuant to the *Water Quality Control Plan for the Lahontan Region*² (Basin Plan), and incorporated the following waste discharge prohibition:

“The discharge of waste that causes violation of any narrative or numeric water quality objective contained in this plan is prohibited.”

The discharges of petroleum products, which are considered wastes, violate the prohibition cited, above.

13. By the end of 2008, the contaminant concentrations in groundwater had largely attenuated to non-detect or trace levels across the project area. The only residual groundwater contamination failing to meet water quality objectives was located at monitoring well MW-27, in the center of Lake Tahoe Boulevard, and nearby monitoring well MW-16R on the north side of Lake Tahoe Boulevard. The contaminant plume was approximately 100 feet long.
14. In 2012, the State Water Resources Control Board adopted the “Low-Threat Underground Storage Tank Case Closure Policy” (Policy). The Policy established closure criteria for underground storage tank cases which are protective of human health and the environment. The Policy allows minor residual petroleum and MTBE contamination in groundwater at levels expected to naturally attenuate based on low contaminant concentrations, small plume size, and adequate distance to drinking water wells and surface water bodies. The Policy also established closure criteria to be met in soil and groundwater for potential exposure pathways including exposure by direct contact with soil, outdoor air exposure, and indoor air exposure.
15. On June 15, 2016, Water Board staff issued a letter recommending No Further Action Required for the historical petroleum release at the subject property based on the available data, indicating case closure satisfies the Policy’s closure criteria.
16. The Water Board finds that the corrective actions taken by the Dischargers in response to Cleanup and Abatement Order No. 85-1 (Order), as amended, adequately addressed the requirements of the Order, as amended. The corrective

² The *Water Quality Control Plan for the Lahontan Region* became effective in 1995.

actions taken by the Dischargers have mitigated the historical petroleum releases from underground storage tanks to concentrations that satisfy the Policy's closure criteria.

17. The Dischargers have complied with the requirements of the Order, as amended; and therefore, it is in the public interest to rescind the Order and its amendments. The Water Board has notified the Dischargers and interested persons of its consideration of case closure (No Further Action Required) for the historical unauthorized release of petroleum products at the site through a 60-day public notice and request for comments. The Water Board has considered and responded to all comments pertaining to case closure at the site.

18. Issuance of this Rescission Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, section 21000, et seq.), in accordance with title 14, California Code of Regulations, section 15321.

IT IS HEREBY ORDERED that Cleanup and Abatement Order No. 85-1, as amended, be rescinded.

Ordered by: _____ Dated: _____
PATTY Z. KOUYOUMDJIAN
EXECUTIVE OFFICER

JSS/cdw/T: R6T-2019-XXXX Terrible Herbst 68 Proposal
File Under: GeoTracker

PROPOSED