



California Regional Water Quality Control Board San Diego Region



Linda S. Adams
Secretary for
Environmental Protection

Over 50 Years Serving San Diego, Orange, and Riverside Counties
Recipient of the 2004 Environmental Award for Outstanding Achievement from USEPA

Arnold Schwarzenegger
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September 8, 2009

Certified Mail – Return Receipt Requested
7009 0080 0000 7308 0257

Mr. Greg Omori
Agri Chemical & Supply, Inc.
2002 Oceanside Blvd
Oceanside, CA 92054

In reply refer to:
T10000001471:rpierce

Dear Mr. Omori:

SUBJECT: INVESTIGATIVE ORDER NO. R9-2009-0150, AGRI CHEMICAL & SUPPLY, INC., 2010 OCEANSIDE BOULEVARD, OCEANSIDE, CALIFORNIA 92054

Enclosed is Investigative Order No. R9-2009-0150, issued by the California Regional Water Quality Control Board, San Diego Region (Regional Board) pursuant to California Water Code (Water Code) sections 13267 and 13304. This Order directs you to submit technical reports to the Regional Board for site investigation and characterization of the Agri Chemical & Supply, Inc. facility.

Any person failing or refusing to furnish information required under the authority of Water Code section 13267 or falsifying information submitted to the Regional Board pursuant to such a directive is guilty of a misdemeanor and may be subject to civil liability. Under Water Code section 13268, a civil liability may be imposed administratively by the Regional Board in an amount of up to \$1,000 per day of violation (i.e., for each day of delay in submitting all information requested, or for each day that false information remains uncorrected).

REIMBURSEMENT OF STAFF COSTS

The Regional Board is authorized to recover reasonable expenses from a responsible party for overseeing cleanup of unauthorized discharges, contaminated properties, and other unregulated releases adversely affecting the State's waters. It is our intent to recover such costs for regulatory work at Agri Chemical & Supply, Inc.

Attachment No. 1 describes the reimbursement process for regulatory oversight for the cost recovery program. Please acknowledge your intent to reimburse the Regional Board for oversight work by signing and returning the enclosed Acknowledgement of Cost Recovery form (Attachment No. 3). Pursuant to the California Water Code section 13365(c)(1)(a), this letter is being sent to provide you with information regarding the cost for regulatory oversight work to be performed at your sight.

California Environmental Protection Agency

ESTIMATE OF WORK TO BE PERFORMED AND ANTICIPATED OUTCOME

The following is a list of tasks the Regional Board may undertake during the remainder of the fiscal year (July 1, 2009 through June 30, 2010):

1. Review of Site Investigation and Characterization Work Plan. Outcome: provide written comments and meet with the Discharger as needed or requested.
2. Review of Site Investigation and Characterization Report. Outcome: provide written comments and meet with the Discharger as needed or requested.
3. Perform compliance site inspection.
4. Technical consultation, participation in meetings and/or telephone conferences to discuss the results of the reports including interim remedial actions.
5. The preparation of enforcement actions and order amendments, as necessary.

The above tasks are based on the information available to the Regional Board at this time. Furthermore, the ability of the Regional Board to provide effective and timely oversight is necessarily related to your ability and desire to perform the work required to cleanup and abate the discharge(s) of waste at the site. The Regional Board will notify you if it becomes necessary to significantly adjust the scope of work or services listed above.

BILLING RATES

Attachment No. 2 describes the billing rates for employees who are expected to engage in the work or services for your site. The name and classification of specific employees making charges to this project will be listed on invoices from the State Water Resources Control Board. The average billing rate for technical staff is approximately \$150 per hour.

ESTIMATE OF EXPECTED CHARGES

Through the remainder of this fiscal year, the Regional Board will likely expend an approximate minimum of 40 hours. The actual time needed will depend on the nature and extent of cleanup and the willingness to accomplish the cleanup in a timely manner. Based upon an average billing rate of \$150 per hour, the estimated billing amount for the Agri Chemical & Supply, Inc. site is \$6,000.

Greg Omori
Agri Chemical & Supply, Inc.
Investigative Order No. R9-2009-0150
Cover letter

- 3 -

September 8, 2009

In the subject line of any response, please include the requested "In reply refer to:" information located in the heading of this letter. If you have any questions or require further information, please contact Mr. Robert Pierce at (858) 627-3935 or via e-mail at rpierce@waterboards.ca.gov, or Mr. John Anderson at (858) 467-2975, or via e-mail at janderson@waterboards.ca.gov.

Respectfully,


Michael P. McCann
Assistant Executive Officer

MPM:jac:bm:jro:rep

Enclosure No. 1: Investigative Order No. R9-2009-0150
Attachment No. 1: Reimbursement Process for Regulatory Oversight
Attachment No. 2: Billing Cost Explanation
Attachment No. 3: Acknowledgement of Cost Recovery Form

cc: Mr. John Anderson, San Diego Regional Board, Site Cleanup Program Manager, (e-mail copy only) Janderson@waterboards.ca.gov.

Mr. Mike Verneti, County of San Diego, Department of Environmental Health
Site Assessment and Mitigation, (email only) Mike.Verneti@sdcounty.ca.gov

Mr. Peter Biniiaz, City of Oceanside, Engineering Division, (email only)
pbiniiaz@ci.oceanside.ca.us

Ms. Nadine Scott, Friends of Loma Alta Creek, (email only) Nadia550@sbcglobal.net

California Environmental Protection Agency

REIMBURSEMENT PROCESS FOR REGULATORY OVERSIGHT

We have identified your facility or property as requiring regulatory cleanup oversight. Pursuant to the Porter-Cologne Water Quality Control Act, reasonable costs for such oversight can be recovered by the California Regional Water Quality Control Board, San Diego Region (Regional Board) from the responsible party. The purpose of the enclosure is to explain the oversight billing process structure.

INTRODUCTION

The Porter-Cologne Water Quality Control Act authorizes the State Water Resources Control Board (SWRCB) to set up Cost Recovery Programs. The Budget Act of 1993 authorized the SWRCB to establish a Cost Recovery Procedure for the Site Cleanup Program (SCP). The program is set up so that reasonable expenses incurred by the SWRCB and Regional Boards in overseeing cleanup of illegal discharges, contaminated properties, and other unregulated releases adversely impacting the State's waters can be reimbursed by the responsible party. Reasonable expenses will be billed to responsible parties and collected by the Fee Coordinator at the SWRCB in the Division of Financial Assistance (DFA).

THE BILLING SYSTEM

Each cost recovery account has a unique charge number assigned to it. Whenever any oversight work is done, the hours are billed to the account number on the employee's time sheet. The cost of the staff hours is calculated by the State Accounting System based on the employee's salary and benefit rate and the SWRCB overhead rate.

SWRCB and Regional Board Administrative charges for work such as accounting, billing preparation, general program meetings and program specific training cannot be charged directly to an account. This work will be charged to Administrative accounting codes. The Accounting Office totals these administrative charges for the billing period and distributes them back to all of the accounts based on the number of hours charged to each account during that billing period. These charges show as SWRCB Program Administrative Charges and Regional Board Program Administrative Charges on the Invoice.

The overhead charges are based on the number of labor hours charged to the account. The overhead charges consist of rent, utilities, travel, supplies, training, and accounting services. Most of these charges are paid in arrears. Therefore, if there is no labor charged during the billing period, there still may be overhead charges associated with previous month's services. The Accounting Office keeps track of these charges and distributes them back monthly to all of the accounts based on the number of hours charged to each account. Therefore, the quarterly statements could show no labor hours charged for that billing period, but some overhead costs could be charged to the account.

Invoices are issued quarterly, one quarter in arrears. If a balance is owed, a check is to be remitted to the SWRCB with the invoice remittance stub within 30 days after receipt of the invoice. The Accounting Office sends a report of payments to the Fee Coordinator on a quarterly basis.

Copies of the invoices are sent to the appropriate Regional Board so that they are aware of the oversight work invoiced. Questions regarding the work performed should be directed

toward your Regional Board case worker. If the responsible party becomes delinquent in their quarterly payments, oversight work will cease immediately. Work will not begin again unless the payments are brought up-to-date.

DISPUTE RESOLUTION

If a dispute regarding oversight charges cannot be resolved with the Regional Board, Section 13320 of the California Water Code provides a process whereby persons may petition the SWRCB for review of Regional Board decisions. Regulations implementing Water Code section 13320 are found in Title 23 of the California Code of Regulations section 2050.

DAILY LOGS

A detailed description (daily log) of the actual work being done at each specific site is kept by each employee in the Regional Board who works on the cleanup oversight at the property. This information is provided on the quarterly invoice using standardized work activity codes to describe the work performed. Upon request, a more detailed description of the work performed is available from the Regional Board.

REMOVAL FROM THE BILLING SYSTEM

After the cleanup is complete the Regional Board will submit a closure form to the SWRCB to close the account. If a balance is due, the Fee Coordinator will send a final billing for the balance owed. The responsible party should then submit a check to the SWRCB to close the account.

AGREEMENT

No cleanup oversight will be performed unless the responsible party of the property has agreed in writing to reimburse the State for appropriate cleanup oversight costs. You may wish to consult an attorney in this matter. As soon as the letter is received, the account will be added to the active Site Cleanup Program Cost Recovery billing list and oversight work will begin.

Attachment 2

**SITE CLEANUP PROGRAM (SCP)
BILLING COST EXPLANATION**

| Employee Salary and Benefits by Classification | ¹ ABR | SALARY SCALE | |
|---|-------------------------|---------------------|--------|
| Associate Governmental Program Analyst | AGPA | 5,852 – | 7,113 |
| Engineering Geologist | EG | 9,213 – | 11,201 |
| Environmental Scientist | ES | 4,092 – | 7,596 |
| Office Assistant (G) | OA | 2,758 – | 3,684 |
| Office Assistant (T) | OA | 2,850 – | 3,759 |
| Office Technician (G) | OT | 3,509 – | 4,268 |
| Office Technician (T) | OT | 3,572 – | 4,341 |
| Principal Water Resources Control Engineer | PWRCE | 13,090 – | 14,434 |
| Sanitary Engineering Associate | SEA | 6,597 – | 8,016 |
| Sanitary Engineering Technician | SET | 4,543 – | 6,339 |
| Senior Engineering, Water Resources | SWRCE | 9,811 – | 13,090 |
| Senior Engineering Geologist | SEG | 10,802 – | 13,127 |
| Senior Environmental Scientist | SRES | 7,248 – | 8,749 |
| Senior Water Resources Control Engineer | SRWRCE | 10,802 – | 13,127 |
| Staff Counsel | STCOUN | 6,216 – | 10,411 |
| Staff Counsel III | STCOUNIII | 10,217 – | 12,606 |
| Staff Counsel IV | STCOUNIV | 11,286 – | 13,934 |
| Staff Environmental Scientist | SES | 7,242 – | 8,745 |
| Student Assistant | SA | 2,663 – | 2,938 |
| Student Assistant Engineer | SAE | 2,663 – | 3,985 |
| Supervising Engineering Geologist | SUEG | 10,769 – | 13,090 |
| Supervising Water Resources Control Engineer | SUWRCE | 10,769 – | 13,090 |
| Water Resources Control Engineer | WRCE | 7,883 – | 11,144 |

Operating Expenses and Equipment ² (both Headquarters and Regional Board offices)

Indirect Costs (Overhead – cost of doing business) 135%

Billing Example

| | | |
|----------------------------------|----|---------------|
| Water Resources Control Engineer | | |
| Salary: | \$ | 11,144 |
| Overhead (indirect costs): | \$ | <u>15,044</u> |
| Total Cost per month | \$ | 26,188. |

Divided by 176 hours per month equals per hour: \$ 148.80
 (Due to the various classifications that expend SCP resources. An average of \$ 150.
 per hour can be used for projection purposes.)

¹ The name and classification of employees performing oversight work will be listed on the invoice you receive.

² The examples are estimates based on recent billings. Actual charges may be slightly higher or lower.



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Date _____

Mr. John H. Robertus
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, California 92123-4353

ATTN: Site Cleanup Program Manager

**AGRI CHEMICAL & SUPPLY, INC., 2010 OCEANSIDE BOULEVARD, OCEANSIDE,
CALIFORNIA**

**ACKNOWLEDGEMENT OF COST RECOVERY OBLIGATIONS AND AGREEMENT
TO REIMBURSE THE STATE OF CALIFORNIA FOR STAFF OVERSIGHT COSTS.**

I, _____, acting within the authority vested in me as an
authorized representative of _____,
acknowledge that I have received and have read a copy of the REIMBURSEMENT
PROCESS FOR REGULATORY OVERSIGHT. Oversight activity by the Regional
Board on this project will begin from the date of this acknowledgement.

I understand the reimbursement process and billing procedure as explained in the letter
and will participate in the cost recovery program and pay all subsequent billings in
accordance with the terms as described in the reimbursement process. I also
understand that signing this form does not constitute any admission of liability, but only
intent to pay for costs associated with oversight of this project. Invoices for payment of
oversight costs should be mailed to the following individual and address: .

FACILITY NAME: Agri Chemical & Supply, Inc.

BILLING CONTACT: _____

BILLING ADDRESS: _____

TELEPHONE NO.: _____

Date: _____

Signature/Title

S:\SITE\SCP\cost_rec.frm.doc
July 18, 2008

California Environmental Protection Agency

Recycled Paper



CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

INVESTIGATIVE ORDER NO. R9-2009-0150

AN ORDER DIRECTING MR. GREG OMORI

TO SUBMIT TECHNICAL REPORTS PERTAINING TO INVESTIGATION OF
DISCHARGE OF PETROLEUM WASTE INTO THE SUBSURFACE ENVIRONMENT
AT 2010 OCEANSIDE BLVD
OCEANSIDE, CALIFORNIA 92054

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

- 1. Legal and Regulatory Authority:** This Order conforms to and implements policies and requirements of the Porter-Cologne Water Quality Control Act (Division 7, commencing with California Water Code section 13000) including (1) sections 13267 and 13304; (2) applicable State and federal regulations; (3) all applicable provisions of Statewide Water Quality Control Plans adopted by the State Water Resources Control Board (State Board) and the *Water Quality Control Plan, San Diego Basin* (Basin Plan) adopted by the Regional Board including beneficial uses, water quality objectives, and implementation plans; (4) State Board policies and regulations, including State Board Resolution No. 68-16 (*Statement of Policy with Respect to Maintaining High Quality of Waters in California*) and State Board Resolution No. 88-63 (*Sources of Drinking Water*), and Resolution No. 92-49 (*Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under California Water Code Section 13304*); and (e) relevant standards, criteria, and advisories adopted by other State and federal agencies.
- 2. Unauthorized Discharge of Petroleum Hydrocarbon Waste:** In October 2008, the City of Oceanside conducted a limited investigation at 2010 Oceanside Boulevard, Oceanside, California (Site) to prepare for utility trenching work. The subsequent report¹ documented that total petroleum hydrocarbons (TPH) in gasoline, diesel, and oil ranges, and several volatile organic compounds were detected in soil samples from the Site, but at concentrations below the U.S. Environmental Protection Agency Region 9 Preliminary Remediation Goals. The report further documents that underground product tank with no known releases had been on the Site. During subsequent work at the Site in December 2008, construction personnel observed free product seeping into a utility trench and notified appropriate regulatory agencies. These agencies also observed evidence, including odors, stains, and leaks, that petroleum hydrocarbon releases had impacted the subsurface environment at the site. Approximately 100 gallons of petroleum hydrocarbons were released to the environment.

¹ Updated Results of Chemical Analysis of Soil Samples, Utility Trench in Oceanside Boulevard Northeast of Crouch Street, Oceanside, CA. Taylor Group, Inc. October 15, 2008.

3. **Persons Responsible for the Discharge of Waste:** Mr. Greg Omori, as the owner of the property at 2010 Oceanside Blvd., Oceanside is responsible for cleaning up the petroleum hydrocarbon wastes in soil and groundwater even if he did not own the Site at the time of the initial release because the discharge of waste includes the passive migration of waste following the initial release.² No information has been submitted to date that clearly identifies the business at the Site that caused the initial release. Mr. Omori reported that a trucking company, Howard Hughes Aircraft, and Garden Coast Supply were businesses that operated on the Site in the past.
4. **Water Quality Standards:** The Site is located within the Loma Alta Hydrologic Area of the Carlsbad Hydrologic Unit. The discharge of petroleum hydrocarbons is a discharge of waste that caused and/or threatens to cause conditions of pollution and/or nuisance.³ Exposure of humans and wildlife to petroleum hydrocarbon wastes in soil, groundwater, and vapor can cause toxic effects and increase the risk of contracting certain cancers. Additionally, the discharge is a violation of the waste discharge prohibition numbers 1, 2, and 7 in the Regional Board Basin Plan.
5. **Basis for Requiring Reports:** Water Code section 13267 provides that the Regional Board may require dischargers, past dischargers, or suspected dischargers to furnish those technical or monitoring reports as the Regional Board may specify, provided that the burden, including costs, of these reports, shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. In requiring the reports, the Regional Board must provide the person with a written explanation with regard to the need for the reports, and identify the evidence that supports requiring that person to provide the reports.
6. **Need for Technical Reports:** Technical reports are needed to provide information to the Regional Board regarding (a) the nature and extent of the discharge, (b) the nature and extent of pollution and/or nuisance conditions in State waters created by the discharge, (c) the threat to public health posed by the discharge, and (d) appropriate cleanup and abatement measures. The reports will enable the Regional Board to determine the vertical and lateral extent of the discharge, ascertain if the condition of pollution poses a threat to human health in the vicinity of the Site, and provide technical information to determine what cleanup and abatement measures are necessary to bring the Site into compliance with applicable water quality standards. Based on the nature and possible consequences of the discharges (as described in Findings No. 1 through 5, above) the burden of providing the required reports bears a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.

² In the Matter of Zoecon Corporation, State Board Order WQ 86-2.

³ "Nuisance" means anything which: 1) is injurious to health, or offensive to the senses, or an obstruction to the free use of property; 2) affects at the same time an entire community or neighborhood; and 3) occurs as a result of the treatment or disposal of wastes.

7. **Cost Recovery:** Pursuant to Water Code section 13304, the Regional Board is entitled to, and will seek, reimbursement for all reasonable costs actually incurred by the Regional Board to investigate unauthorized discharges of waste and to oversee cleanup of such waste, abatement of the effects thereof, or other remedial action, required by this Order.
8. **State Board Policies:** The State Board adopted Resolution No. 92-49, the *Policies and Procedures for Investigation and Cleanup and Abatement of Discharges Under California Water Code Section 13304*. This Resolution sets forth the policies and procedures to be used during an investigation or cleanup of a discharge of waste and requires that cleanup levels be consistent with State Board Resolution No. 68-16, the *Statement of Policy with Respect to Maintaining High Quality of Waters in California*. Resolution No. 92-49 and the Basin Plan establish the cleanup levels to be achieved. Resolution No. 92-49 requires the waste to be cleaned up to background, or if that is not reasonable, to an alternative level that is the most stringent level that is economically and technologically feasible in accordance with Title 23, CCR section 2550.4. Any alternative cleanup level greater than background must (1) be consistent with the maximum benefit for the people of the State; (2) not unreasonably affect present and anticipated beneficial use of waters of the State; and (3) not result in water quality less than that prescribed in the Basin Plan and applicable Water Quality Control Plans and Policies of the State Board.
9. **California Environmental Quality Act (CEQA) Exemption:** This enforcement action is being taken for the protection of the environment and is exempt from the provisions of the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.) in accordance with section 15308, Chapter 3, Title 14 of the CCR. The issuance of this Order is also an enforcement action taken by a regulatory agency and is exempt from the provisions of CEQA pursuant to section 15321(a) (2), Chapter 3, Title 14 of the CCR. This action is also exempt from the provisions of CEQA in accordance with section 15061(b) (3) of Chapter 3, Title 14 of the CCR because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.
10. **Qualified Professionals:** Agri Chemical & Supply, Inc.'s reliance on qualified professionals promotes proper planning, implementation, and long-term cost-effectiveness of investigation, and cleanup and abatement activities. Professionals should be qualified, licensed where applicable, and competent and proficient in the fields pertinent to the required activities. California Business and Professions Code sections 6735, 7835, and 7835.1 require that engineering and geologic evaluations and judgments be performed by or under the direction of licensed professionals.

IT IS HEREBY ORDERED, pursuant to sections 13267 of the Water Code, by 5:00 pm on April 1, 2010, Greg Omori is required to submit a scientifically-defensible technical report that presents the results of an investigation of the discharged petroleum hydrocarbon waste and the effects of the discharges on human health and the environment at the Site, and that complies with the following directives:

A. INVESTIGATION OF DISCHARGES

1. SITE INVESTIGATION AND CHARACTERIZATION WORK PLAN

Mr. Omori shall develop and submit to the Regional Board by **December 3, 2009** a work plan designed to guide the collection of information to produce the Technical Report (Site Investigation and Characterization Report) described in Directive B. The work plan at a minimum shall contain the following:

- a. **Initial Site Conceptual Model (SCM):** The work plan shall include the initial SCM. The SCM is a written or pictorial representation of the release scenario and the likely distribution of waste at the site, as well as potential pathways and receptors. The SCM must identify and describe the types of wastes present including their distribution in space and time, and how the wastes are changing in space and time. The SCM must identify the potential, current and future receptors in the area; link potential sources to potential receptors through transport of wastes in the air, soil and water; and identify the fate and transport characteristics of the site. It should describe or show the physical characteristics and properties of the subsurface and identify the environmental issues that need to be investigated (and those issues that do not need to be addressed). The initial SCM must include data interpretations, a discussion of the level of uncertainty of conclusions, and outline remaining data gaps.
- b. **Proposed Actions:** The work plan shall include a description of proposed actions including field methodologies, chemical analyses methods, sampling locations and proposed monitoring well installations to fill in data gaps. Contingencies for collection of additional samples shall be proposed in the work plan.
- c. **Report Completion Schedule:** The work plan shall include a schedule for completion of all activities and submission of a final Site Investigation and Characterization Report described in Directive B.
- d. **Regional Board Notification:** The work plan shall allow time for Mr. Omori to provide notification to the Regional Board at least two weeks before the start of fieldwork.
- e. **Presumptive Remedies:** Presumptive remedies⁴ shall be considered during the development of the work plan so that data needed for selection

⁴ Presumptive remedies are preferred technologies based on USEPA's scientific and engineering evaluation of performance data on remedial technology implementation in the Superfund Program. The five types of sites for which there is USEPA presumptive remedy guidance are: Volatile Organic Compounds (VOCs) in Soils, Municipal Landfills, Metals in Soils, Wood Treaters, and Contaminated Ground Water. The objective of USEPA's presumptive remedies initiative is to use the experience gained by USEPA in the Superfund Program to streamline site investigation and speedup selection of cleanup

and design of remedial alternatives may be collected during site characterization.

- f. **Work Plan Modification:** Mr. Omori shall modify the work plan as needed to comply with the requirements of this Order.

B. SITE INVESTIGATION AND CHARACTERIZATION REPORT

Mr. Omori shall submit a Site Investigation and Characterization Report by **April 1, 2010** that contains a detailed, comprehensive, and thorough discussion of the methods, approach, findings, conclusion(s), and recommendation(s) of the Investigation of the discharge. At a minimum, the Site Investigation and Characterization Report shall contain the following:

1. **Transmittal Letter:** The transmittal letter shall include the following:

- a. **Content:** The Transmittal Letter shall include a brief discussion of the findings, conclusion(s), and recommendation(s) presented in the Site Investigation and Characterization Report.
- b. **Certification Statement:** The person signing the Transmittal Letter shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

- c. **Signatory Requirements:** All reports required by this Order and other information required by the Regional Board shall be signed:
- i.) By a person certified as follows:
1. For a corporation: by a principal executive officer or at least the level of vice president.
 2. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively.
 3. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official.

- ii.) Or by a duly authorized representative of that person described in paragraph (a). An individual is a duly authorized representative only if:
 1. The authorization is made in writing by a person described in paragraph (a) of this provision.
 2. The authorization specifies either an individual or position having responsibility for the overall operation of the regulated facility or activity; and
 3. The written authorization is submitted to the Regional Board.

2. **Summary of Investigation:** The Site Investigation and Characterization Report must contain, but is not limited to, the following:

- a. **Site Conceptual Model:** The report shall contain an updated SCM that incorporates the information collected during the site investigation and characterization;
- b. **Source Characterization:** The report shall describe the results of an investigation of all potential sources of waste discharges to the soil and groundwater from the Property based on historical records of operations, Site reconnaissance, and previous sampling studies. Potential sources that shall be investigated include, but are not limited to, tanks, drains, sumps, areas of stained ground, container storage areas, transformers, and other areas where waste constituents were handled, stored, or used. All sources of such waste discharges shall be located on a Site map at a scale of 1 inch = 200 feet or larger, with an appropriate contour interval to depict Site topography. Individual maps shall be developed for different classes of waste constituents (e.g., VOCs, PCBs, and heavy metals). A combined map shall also be included showing all classes of waste constituents on a single map.
- c. **Geologic Characterization:** The report shall contain an accurate characterization of the subsurface geology, the hydrogeologic characteristics, and all preferential pathways that may affect groundwater flow and contaminant migration. The geologic characterization must be adequate to explain groundwater flow characteristics of the Site, and how Site geology and groundwater flow affect contaminant migration.
- d. **Groundwater Flow Characterization:** The report shall describe the rate(s) and direction(s) of local groundwater flow, in both the horizontal and vertical dimension, for all water-bearing units potentially affected by the wastes discharged from the Site.
- e. **Extent of Waste Constituent Characterization:** The report shall characterize the lateral and vertical extent of each waste constituent in soil and groundwater to the background⁵ value for that waste constituent.

⁵ "Background" means the concentrations of measures of constituents or indicator parameters in water or soil that have not been affected by waste constituents from the Site.

- f. **Human Health and Ecological Risk Assessment:** The report shall include a human health and ecological risk assessment for every complete exposure pathway identified in the Site Conceptual Model (SCM). The human health and ecological risk assessments should follow U. S. Environmental Protection Agency (USEPA) and the California Environmental Protection Agency guidance.
- g. **Groundwater Monitoring Wells:** The report shall describe the location of existing monitoring wells and the proposed location of additional monitoring wells needed to characterize the types of waste constituents present, the concentrations of waste constituents and their lateral and vertical extent in groundwater. Additional monitoring wells shall be proposed in locations adequate to determine the lateral and vertical extent of waste constituents to the background value in the subsurface. Proposed wells must also be sited in locations that will provide results that show whether the size and mass of the contaminant plume is expanding, stable, or shrinking.
- h. **Field Methodologies:** The report shall describe the field methodologies used for drilling, soil sampling, ground and surface water sampling, soil vapor sampling, well and piezometer construction, geophysical surveys, and other activities. Methods for purging and sampling monitoring wells must be capable of providing representative samples of groundwater for detecting the waste constituents of interest.
- i. **Chemical Analyses:** The report shall describe the laboratory analytical methods and protocols used for each environmental medium including but not limited to soil, soil vapor, and/or groundwater. The suite of chemical analyses must be adequate to identify the full range of Site-specific waste constituents. The suite of chemical analyses must also comply with Directive H. 4. of this Order. Records of chemical use, storage, and disposal shall be evaluated to provide documentation that all of the waste constituents of concern have been identified.
- j. **Sample Locations and Number:** The locations, type and number of samples shall be identified and shown on a Site map and cross sections. The number of samples and suite of chemical analyses must be sufficient to identify the nature of waste constituent sources, to define the distribution of waste constituents in the subsurface, and to provide data for environmental risk assessment, remedy selection, and remedial design. In addition samples shall be collected to evaluate physical properties of soils and aquifer materials. All monitoring data shall be presented in graphical and tabular forms, to include the sample result, sample medium, location, depth, sampling method, and analyses in accordance with industry standards and consistent with regulatory guidance.

3. **Tables:** The Site Investigation and Characterization Report must contain a table(s) comparing the following information:
 - a. The concentration of each constituent detected;
 - b. The lowest established WQO that is protective of all the designated beneficial uses of waters of the State (refer to Order Finding No. 5 above) for each constituent detected; and
 - c. The lowest established concentration that is protective of all applicable receptors.
4. **Figures:** The Site Investigation and Characterization Report must contain figures that illustrate the findings of the Investigation. At a minimum, the figures must include a detailed and comprehensive site plot plan, cross-sections illustrating the lateral and vertical extent of any soil and groundwater pollution, monitoring well construction details, groundwater elevations, lithologies, sample locations and results, and groundwater flow direction.
5. **Documentation:** The Site Investigation and Characterization Report must contain or cite reference document(s) that support Investigation findings.
6. **Use of Registered/Appropriately Qualified Professionals:** Mr. Omori shall provide documentation that the report required under this Order is prepared under the direction of appropriately qualified professionals. California Business and Professions Code sections 6735, 7835, and 7835.1 require that engineering and geologic evaluations and judgments be performed by or under the direction of registered professionals. A statement of qualifications and registration numbers, if applicable, of the responsible lead professional and all professionals making significant and/or substantive contributions shall be included in the report submitted by Mr. Omori. The lead professional(s) shall sign and affix his/her registration stamp to the report.

C. REPORTS TO BE FILED WITH THE REGIONAL BOARD

1. **Site Investigation and Characterization Work Plan:** By 5:00 pm on **December 3, 2009**, Mr. Omori is required to submit a copy of the Site Investigation and Characterization Work Plan that complies with all the requirements of this Order.
2. **Site Investigation and Characterization Report:** By 5:00 pm on **April 1, 2010**, Mr. Omori is required to submit a copy of the Site Investigation and Characterization Report that complies with all the requirements of this Order.
3. **Document Submittals:** Mr. Omori shall submit both one paper and one electronic, searchable PDF copy of all documents required under this Order to:

Executive Officer
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, California 92123-4353
Attn: John Anderson, Groundwater Basins Branch

All correspondence and documents submitted to the Regional Board shall include the following Geotracker Site ID in the header or subject line:

T10000001471

D. ELECTRONIC DATA SUBMITTALS

The Electronic Reporting Regulations (Chapter 30, Division 3 of Title 23 & and Division 3 of Title 27, CCR) require electronic submission of any report or data required by a regulatory agency from a cleanup site after July 1, 2005. All information submitted to the Regional Board in compliance with this Order is required to be submitted electronically via the Internet into the Geotracker database <http://geotracker.waterboards.ca.gov/> (Geotracker Site ID. T10000001471). The electronic data shall be uploaded on or prior to the regulatory due dates set forth in the Order or addenda thereto. To comply with these requirements, Mr. Omori shall upload to the Geotracker database the following minimum information.

1. **Laboratory Analytical Data:** Analytical data (including geochemical data) for all soil, vapor, and water samples in Electronic Data File (EDF) format. Water, soil, and vapor data include analytical results of samples collected from: monitoring wells, boreholes, gas and vapor wells or other collection devices, surface water, groundwater, piezometers, stockpiles, and drinking water wells.
2. **Location Data:** The latitude and longitude of any permanent monitor well for which data is reported in EDF format, accurate to within 1 meter and referenced to a minimum of two reference points from the California Spatial Reference System (CSRS-H), if available.
3. **Monitoring Well Elevation Data:** The surveyed elevation relative to a geodetic datum of any permanent monitor well. Elevation measurements to the top of groundwater well casings for all groundwater monitoring wells.
4. **Depth-to-Water Data:** Monitoring wells need to have the depth-to-water information reported whenever water data is collected, even if water samples are not actually collected during the sampling event.
5. **Monitoring Well Screen Intervals:** The depth to the top of the screened interval and the length of screened interval for any permanent monitor well.

6. **Site Map:** Site map or maps which display discharge locations,⁶ streets bordering the facility, and sampling locations for all soil, water, and vapor samples. The site map is a stand-alone document that may be submitted in various electronic formats.⁷ A site map must also be uploaded to show the maximum extent of any groundwater pollution. An updated site map may be submitted at any time.
7. **Boring logs:** Boring logs (in searchable PDF format) prepared by an appropriately licensed professional.
8. **Electronic Report:** A complete copy (in searchable PDF format) of all work plans, assessment, cleanup, and monitoring reports including the signed transmittal letters, professional certifications, and all data presented in the reports.

E. PROVISIONS

1. **No Pollution, Contamination or Nuisance:** The storage, handling, treatment, or disposal of soil containing petroleum hydrocarbon waste or polluted groundwater must not create conditions of nuisance as defined in Water Code section 13050(m). Mr. Omori must properly manage, treat and dispose of wastes and polluted groundwater in accordance with applicable federal, state and local regulations.
2. **Good Operation and Maintenance:** Mr. Omori must maintain in good working order and operate as efficiently as possible any monitoring system, Site or control system installed to achieve compliance with the requirements of this Order.
3. **Entry and Inspection:** The responsible party shall allow the Regional Board, or any authorized representative upon the presentation of credentials and other documents as may be required by law, to:
 - a. Enter upon the responsible party's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this Order;
 - b. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order.

⁶ Former tank(s), product and vapor piping, dispenser locations, or sump locations, and unauthorized discharge or spill areas.

⁷ Formats include .gif, .jpeg, .jpg, tiff, .tif, .pdf

4. **Contractor/Consultant Qualifications:** All reports, plans and documents required under this Order shall be prepared under the direction of appropriately qualified professionals. A statement of qualifications and license numbers, if applicable, of the responsible lead professional and all professionals making significant and/or substantive contributions shall be included in the report submitted by Mr. Omori. The lead professional performing engineering and geologic evaluations and judgments shall sign and affix their professional geologist or civil engineering registration stamp to all technical reports, plans or documents submitted the Regional Board.
5. **Laboratory Qualifications:** Unless otherwise permitted by the Regional Board, all analyses shall be conducted at a laboratory certified for such analyses by the California Department of Health Services. Mr. Omori must use a laboratory capable of producing and providing quality assurance/quality control (QA/QC) records for Regional Board review. The director of the laboratory whose name appears on the certification shall supervise all analytical work in his/her laboratory and shall sign all reports submitted to the Regional Board.
6. **Laboratory Analytical Reports:** Any report presenting new analytical data is required to include the complete Laboratory Analytical Report(s). The Laboratory Analytical Report(s) must be signed by the laboratory director and contain:
 - a. Complete sample analytical report;
 - b. Complete laboratory quality assurance/quality control (QA/QC) report;
 - c. Discussion of the sample and QA/QC data; and
 - d. A transmittal letter that shall indicate whether or not all the analytical work was supervised by the director of the laboratory, and contain the following statement, "All analyses were conducted at a laboratory certified for such analyses by the California Department of Health Services in accordance with current USEPA procedures."
7. **Analytical Methods:** Specific methods of analysis must be identified in monitoring program reports. If Mr. Omori proposes to use methods or test procedures other than those included in the most current version of "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, SW-846" (U.S. Environmental Protection Agency) or 40 CFR 136, "Guidelines Establishing Test Procedures for the Analysis of Pollutants; Procedures for Detection and Quantification," the exact methodology must be submitted for review and must be approved by the Regional Board prior to use.
8. **Reporting of Changed Owner or Operator:** Mr. Omori must notify the Regional Board of any changes in Site occupancy or ownership associated with the property described in this Order.

F. NOTIFICATIONS

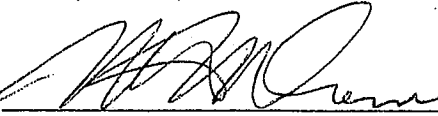
1. **Enforcement Discretion:** The Regional Board reserves its right to take any enforcement action authorized by law for violations of the terms and conditions of this Order.
2. **Enforcement Notification:** Water Code section 13268(a)(1) provides that any person failing or refusing to furnish technical or monitoring report information as required by Water Code section 13267(b), or falsifying any information provided therein, is guilty of a misdemeanor and may be liable civilly for an administratively imposed liability of up to \$1,000 per day for each day compliance is not achieved with an Order issued in accordance with subdivision 13268(b).
3. **Requesting Evidentiary Hearing by the Regional Board:** Any person affected by this action of the Regional Board may request an evidentiary hearing before the Regional Board. The Regional Board's Assistant Executive Officer may elect to hold an informal hearing or a "paper hearing" in lieu of scheduling a hearing before the Regional Board itself. If you decide to request an evidentiary hearing, send your request to the Regional Board Assistant Executive Officer, Attn: John Anderson Ground Water Basins Branch, at the address provided in Directive C.3 of this Order. Please consider the following carefully:
 - a. The Regional Board must receive your request **within 30 days** of the date of this Order.
 - b. Your request must include all comments, technical analysis, documents, reports, and other evidence that you wish to submit for the evidentiary hearing. However, please note that the administrative record will include all materials the Regional Board has previously received regarding this site. You are not required to submit documents that are already in the record.
 - c. The Assistant Executive Officer or Regional Board may deny your request for a hearing after reviewing the evidence.
 - d. If you do not request an evidentiary hearing, the State Board may prevent you from submitting new evidence in support of a State Board petition.
 - e. Your request for an evidentiary hearing, if you submit one, does not stay the effective date of the Order, whether or not a hearing is scheduled.
 - f. A request for a hearing does not extend the 30-day period to file a petition with the State Board (see below): However, we suggest that you ask the State Board to hold the petition in abeyance while your request for a hearing is pending. (Refer to CCR Title 23 section 2050.5(d)) Additional information

regarding the State Water Resources Control Board (State Board) petition process is provided below.

4. Requesting Administrative Review by the State Board:

Any person affected by this action of the Regional Board may petition the State Board to review the action in accordance with section 13320 of the Water Code and CCR Title 23 section 2050. The petition must be received by the State Board (Office of Chief Counsel, P.O. Box 100, Sacramento, California 95812) within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request.

Ordered By:



MICHAEL P. McCANN
Assistant Executive Officer
September 8, 2009

Summary of Required Submittals and Deadlines

| Directive | Activity | Due Date |
|-----------|---|------------------|
| A | Site Investigation and Characterization Work Plan | December 3, 2009 |
| B | Site Investigation and Characterization Report | April 1, 2010 |


| 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 type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>X</p> <p>B. Received by (Printed Name) C. Date of Delivery</p> |
| <p>1. Article Addressed to:</p> <p>GREG OMORI AGRI CHEMICAL & SUPPLY, INC. 2002 OCEANSIDE BLVD OCEANSIDE, CALIFORNIA 92054</p> | <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>3. Service Type</p> <p><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) 7009 0080 0000 7308 0257</p> | |

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

7009 0080 0000 7308 0257

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

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| Return Receipt Fee (Endorsement Required) | | |
| Restricted Delivery Fee (Endorsement Required) | | |
| Total Postage & Fees | | \$ 6.66. |

Sent To: **MR. Greg Omori**

Street, Apt. No., or PO Box No.: **2002 Oceanside Blvd.**

City, State, ZIP+4: **Oceanside, CA. 92054**

PS Form 3800, August 2006 See Reverse for Instructions