



Linda S. Adams  
Secretary for  
Environmental Protection

# California Regional Water Quality Control Board

## San Diego Region



Edmund G. Brown, Jr.  
Governor

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9174 Sky Park Court, Suite 100, San Diego, California 92123-4353  
(858) 467-2952 • Fax (858) 571-6972  
<http://www.waterboards.ca.gov/sandiego>

January 4, 2011

In reply refer to:  
**T0607301948:BPulver**

Mr. and Mrs. Ramiro Montoya  
10895 Uvalde Court  
San Diego, California 92124

Dear Mr. and Mrs. Montoya:

**SUBJECT: COMPLIANCE WITH INVESTIGATIVE ORDER NO. R9-2008-0011  
EL GUERO TIRE SHOP AND REPAIR  
2401 IMPERIAL AVENUE, SAN DIEGO, CALIFORNIA**

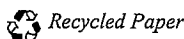
As soon as possible, but no later than January 31, 2011, please let the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) know what are your plans to conduct the work required by Investigative Order No. R9-2008-0011 (Order). You can contact the San Diego Water Board by telephone (858-467-2733) by e-mail ([bpulver@waterboards.ca.gov](mailto:bpulver@waterboards.ca.gov)), or by mail (9174 Sky Park Court, Suite 100, San Diego, California 92123).

In response to a leak of gasoline from the underground storage tanks at the El Guero Tire Shop and Repair, the San Diego Water Board issued the Order (a copy is enclosed) to you to determine the nature and extent of soil and groundwater with gasoline from the leak. The Order required you to submit a workplan describing how you intend to investigate the leak, and a report with the results of your investigation. The workplan was due to the San Diego Water Board by May 30, 2008. The report was due to the San Diego Water Board by July 30, 2008.

Because you did not submit either of these documents, on February 24, 2009, the San Diego Water Board issued a Notice of Violation (NOV) to you. A copy of the NOV is enclosed. The NOV notified you that you violated the Order by not submitting the workplan and report, and that you could be fined for these violations. In order to avoid the fines you need to submit the workplan and report as soon as possible. The fines increase for each day you are late and could be as high as \$1,000 per day.

The San Diego Water Board needs to speak with you to find out how you intend on complying with the requirements of the Order and to help to answer any question you may have on this matter. If you decide not to contact the San Diego Water Board as requested it is likely that this matter will be given to our Enforcement Unit who may issue additional NOV's and fine you for your failure to submit the workplan and report.

*California Environmental Protection Agency*



Mr. and Mrs. Montoya

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January 4, 2011

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 regarding this letter please feel welcome to call me at (858) 467-2733 or by email at [bpulver@waterboards.ca.gov](mailto:bpulver@waterboards.ca.gov).

Respectfully,



BARRY S. PULVER, PG, CEG, CHG  
Engineering Geologist  
Cleanup and Land Discharge Branch

BSP:jpa

Enclosures

Investigative Order No. R9-2008-0011

Notice of Violation No. R9-2009-0032

*California Environmental Protection Agency*

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION**

**INVESTIGATIVE ORDER NO. R9-2008-0011**

**RAMIRO AND MARY MONTOYA  
(EL GUERO TIRE SHOP AND REPAIR)  
2401 IMPERIAL AVENUE  
SAN DIEGO, CALIFORNIA**

Pursuant to California Water Code section 13267, the California Regional Water Quality Control Board, San Diego Region (herein after Regional Board) finds:

- 1. Unauthorized Discharge of Waste.** In 1996, an unauthorized discharge of petroleum hydrocarbon waste to soil was discovered at the El Guero Tire Shop and Repair located at 2401 Imperial Avenue in San Diego, San Diego County, California. The waste was discharged from the underground storage tank (UST) system located on the property. Total recoverable petroleum hydrocarbons (TRPH), and total petroleum hydrocarbons as gasoline (TPH-g) were detected in soil samples collected during the tank removal at maximum concentrations of 3,358 mg/kg and 4,904 mg/kg respectively. On August 1, 1996, the San Diego County Department of Environmental Health issued a notice of the unauthorized release. It is suspected that this release could affect the quality of water within the Chollas Hydrologic Subarea.
- 2. Parties Responsible for the Discharge.** Mr. Ramiro and Ms. Mary Montoya (hereinafter the Dischargers) are the parties responsible for the discharge. At the time of the unauthorized discharge of waste, Mr. and Ms. Montoya owned and operated the underground storage tank system on the property. As the owner and operator of the UST system, the Dischargers caused the initial discharge of petroleum waste to soil at the facility.
- 3. California Code of Regulations Chapter 16 Requirements.** California Code of Regulations (CCR)<sup>1</sup> Title 23, Division 3, Chapter 16, Article 11 applies to responsible parties for an UST whenever there is any reportable unauthorized release. Applicable requirements of Chapter 16 including the following:

  - a. CCR, Section 2652 (d) requires submission of reports to the local agency or Regional Water Quality Control Board every three months until investigation and cleanup are complete.

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<sup>1</sup> All references to CCR herein are to Title 23 unless otherwise noted.

- b. CCR, Section 2654 requires that in the event of an undocumented unauthorized release, an initial site characterization is performed, providing data including the nature and estimated quantity of the release; water quality, use and approximate locations of wells potentially affected by the release.
  - c. CCR, Section 2722 (c) requires the responsible party to submit a workplan for Proposed activities under the Preliminary Site Assessment Phase, if directed by the regulatory agency.
  - d. CCR, Section 2723 specifies that the Preliminary Site Assessment Phase includes the initial site characterization specified in Section 2654 and reporting must be conducted according to Section 2562.
- 4. Necessity of Reporting.** A Preliminary Site Assessment is required to comply with 23 CCR Chapter 16 Sections 2654 and 2723. As of this date, the Dischargers have not provided any updates or documentation of assessment activities. Consequently, the information in the record for this case is insufficient to determine the nature and quantity of the release or determine if the release poses a threat to human health or the environment. The workplan for the Preliminary Site Assessment is required pursuant to CCR, Section 2722(c), to allow regulatory review of the proposed activities. Quarterly reporting is required pursuant to Section 2652 (d).
- 5. Regulatory Authority.** California Water Code section 13267 provides that the Regional Board can require any person who has discharged, discharges, proposes to discharge or is suspected of having discharged or discharging waste to investigate, monitor, and report information. The burden, including the costs, of preparing the reports must bear a reasonable relationship to the need for and the benefits to be obtained from the reports. These findings provide the Dischargers with a written explanation with regard to the need for the reports and identify the evidence that supports the requirement to submit the reports. The associated costs bear a reasonable relationship to the need for the actions, specifically the protection of water quality and beneficial uses in the Chollas hydrologic subarea. The required information and subsequent regulatory review are necessary to determine whether and to what extent the waste discharged has impacted and/or poses a threat to human health or the environment.
- 6. Qualified Professionals.** Discharger 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 registered professionals.

**IT IS HEREBY ORDERED**, pursuant to section 13267 of the California Water Code, that the Dischargers shall submit the following technical and monitoring reports:

**A. REPORTS**

1. **Workplan for Preliminary Site Assessment Investigation (PSAI).** A workplan is due no later than **May 30, 2008**. The workplan shall include the proposed actions and a proposed schedule for their completion as required by CCR Section 2723 (d). The workplan shall include a discussion of the conceptual site model and how the proposed actions will address data gaps in the conceptual site model.
2. **Preliminary Site Assessment Report.** The Preliminary Site Investigation Report is due no later than **July 30, 2008**. The report shall describe the activities conducted under the Workplan for Preliminary Site Assessment Investigation and provide an update of the conceptual site model. The report must include the following information as required by CCR sections 2653 and 2654:
  - a. Data on the nature and estimated quantity of the release. To assess the nature of the release analytical data should be provided for TRPH, TPH-g, benzene, toluene, ethylbenzene, total xylenes, (BTEX) methyl tertiary butyl ether (MTBE), chlorinated hydrocarbons, tertiary butyl alcohol (TBA) and other fuel oxygenates. The estimation of quantity of the release should be based on lateral and vertical delineation of contaminated soil, groundwater, and free product and specifically address whether contaminated soils are or may be in contact with surface water or groundwater.
  - b. Status of investigations to determine the possible presence of free product.
  - c. Characterization of the geology and hydrogeology of the site with respect to transport of the wastes. The characterization shall include a discussion of subsurface soil conditions, locations of subsurface utilities, climatological conditions, and land use.

- d. Evaluation of the impacts of the wastes on all existing and future sensitive receptors that could be affected by the wastes.

The Preliminary Site Assessment Report should be submitted to the Regional Board no later than July 30, 2008. It may be combined with a quarterly report.

- 3. **Quarterly Reports.** Until investigation and cleanup are complete, reports shall be submitted to the Regional Board every three months. Reports shall include but not be limited to:
  - a. An update on any investigation, monitoring, corrective or remedial actions which have occurred during the reporting period.
  - b. The method of cleanup implemented to date, proposed cleanup actions, and a time schedule for implementing the proposed actions.

Quarterly reports shall be submitted according to the following schedule:

Monitoring Period	Due Date for Report
First Quarter (January-March)	Due no later than April 30
Second Quarter (April-June)	Due no later than July 30
Third Quarter (July-September)	Due no later than October 30
Fourth Quarter (October-December)	Due no later than January 30

## B. PROVISIONS

- 1. **Contractor/Consultant Qualifications.** All reports, plans and documents required under this Order shall be prepared under the direction of appropriately qualified professionals. 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.
- 2. **Lab Qualifications.** All samples must be analyzed by California State-certified laboratories using approved EPA methods for the type of analysis to be performed. All laboratories must maintain quality assurance/quality control (QA/QC) records for Regional Board review.

3. **Reporting of Changed Owner or Operator.** The Dischargers must notify the Regional Board of any changes in site occupancy or ownership associated with the property described in this Order.
4. **Penalty of Perjury Statement.** All reports must be signed by the Dischargers' principal executive officer or their duly authorized representative, and must include a statement by the official, under penalty of perjury, that the report is true and correct to the best of the official's knowledge.
5. **Electronic Data Submittals.** All information submitted to the Regional Board in compliance with this Order in paper copy format is also required to be submitted electronically via the Internet into the GeoTracker database. To comply with section 3893, Title 23, CCR; your update to the Geotracker database must include the following minimum information:
  - a. Data generated after the effective date of the regulations by chemical analysis of soil, vapor, or water samples (including surface water, groundwater and influent/effluent water samples from remediation systems), shall be submitted in Electric Data File (EDF) format.
  - b. The latitude and longitude of any permanent monitoring 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.
  - c. The surveyed elevation relative to a geodetic datum of any permanent monitoring well.
  - d. The elevation of groundwater in any permanent monitoring well relative to the surveyed elevation.
  - e. A site map or maps showing the location of all sampling points referred to in the report.
  - f. The depth to the screened interval and the length of screened interval for any permanent monitoring well.
  - g. Boring logs, in PDF format.
  - h. A complete copy of the report, in PDF format, which includes the signed transmittal letter and professional certification.

Ramiro and Mary Montoya  
Order No. R9-2008-0011  
El Guero Tire Shop and Repair 9UT3182

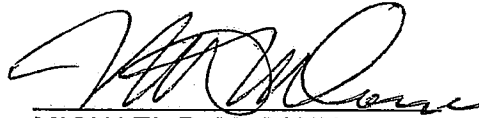
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March 20, 2008

The GeoTracker website address is  
<http://www.geotracker.waterboards.ca.gov>. Deadlines for electronic  
submittals coincide with deadlines for paper copy submittals.

Dated this 20<sup>th</sup> day of March 2008

BY THE EXECUTIVE OFFICER



MICHAEL P. McCANN  
Assistant Executive Officer  
March 20, 2008

Signed pursuant to the authority  
delegated by the Executive Officer to  
the Assistant Executive Officer

#### NOTIFICATIONS

1. Failure to comply with the requirements of this order directed pursuant to Water Code section 13267 may subject you to enforcement action, including but not limited to: imposition of administrative civil liability under water code section 13268 or referral to the attorney general for injunctive relief or civil or criminal liability
2. Any person affected by this action of the Regional Board to require certain technical or monitoring reports under Water Code section 13267 may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with Section 13320 of the California Water Code and Title 23, California Code of Regulations, Section 2050. The petition must be received by the State Water Board, Office of Chief Counsel, P.O. Box 100, Sacramento, California 95812, within 30 days of the date of this Final Order. Copies of the law and regulations applicable to filing petitions will be provided upon request.





Linda S. Adams  
Secretary for  
Environmental Protection

## California Regional Water Quality Control Board San Diego Region

9174 Sky Park Court, Suite 100, San Diego, California 92123-4340  
(858) 467-2952 • Fax (858) 571-6972  
<http://www.waterboards.ca.gov/sandiego>



Arnold Schwarzenegger  
Governor

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**  
**7004 0750 0000 7625 1521**

February 24, 2009

Mr. and Mrs. Ramiro and Mary Montoya  
10895 Uvalde Court  
San Diego, CA 92124

In reply refer to:  
ORCGWU:50-03182:spease

Dear Mr. and Mrs. Montoya:

**SUBJECT: NOTICE OF VIOLATION NO. R9-2009-0032**  
**SITE: EL GUERO TIRE SHOP AND REPAIR, 2401 IMPERIAL AVE.,**  
**SAN DIEGO, CA**

YOU ARE HEREBY NOTIFIED OF THE FOLLOWING ALLEGED VIOLATION:

Failure to comply with Directives A.1. and A.2. of Investigative Order No. R9-2008-0011:

**BASIS FOR ALLEGED VIOLATION:**

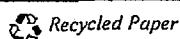
Directive A.1. of Order No. R9-2008-0011 directs you to submit a Workplan for Preliminary Site Assessment by May 30, 2008.

Directive A.2. of Order No. R9-2008-0011 directs you to submit a Preliminary Site Assessment Report by July 30, 2008.

To date, neither the Workplan nor the Report has been submitted.

The violation cited above is serious and may result in further enforcement action against you, including a civil liability being administratively implemented by the California Regional Water Quality Control Board, San Diego Region (Regional Board) under authority of section 13350 of the California Water Code. 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 to \$1,000 per day of the violation.

*California Environmental Protection Agency*



2/25/09

February 24, 2009

Questions pertaining to the issuance of this Notice of Violation should be directed to Ms. Susan Pease at (858) 637-5596. Written correspondence pertaining to this Notice of Violation should be directed to the following address:

Ms. Julie Chan  
Supervising Engineering Geologist  
California Regional Water Quality Control Board  
San Diego Region  
9174 Sky Park Court, Suite 100  
San Diego, CA 92123  
Attn: Ms. Sue Pease, ORCGW Unit

In the heading portion of this notice after "In reply refer to:" a Regional Board code number is listed. In order to assist us in the processing of your correspondence please include this code number in the heading or subject line portion of all correspondence and reports to the Regional Board pertaining to this matter.

Respectfully,

*Robert Marris*

*for*

JULIE CHAN  
Supervising Engineering Geologist  
Ground Water Basins Branch

JC/sjp

c:/EIGueroTireShop/NOV.Feb 2009.doc