

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

TECHNICAL REPORTING ORDER R5-2010-0828
CALIFORNIA WATER CODE SECTION 13267

FOR
RG TUCKER & SONS, INC.
14990 BROWNING ROAD
ROBBINS
SUTTER COUNTY

You are legally obligated to respond to this Order. Please read this Order carefully

This Order is issued to R. G. Tucker & Sons, Inc. (hereafter Discharger) pursuant to California Water Code (CWC) section 13267, which authorizes the Executive Officer of the California Regional Water Quality Control Board, Central Valley Region (hereafter Central Valley Water Board) to issue an Order requiring the submittal of technical reports.

The Executive Officer of the Central Valley Water Board finds:

PROPERTY OWNERSHIP AND OPERATIONS

1. According to California Secretary of State, R.G. Tucker & Sons, inc. is an active California corporation, with Steve Tucker as the Agent for Services of Process for the corporation. Further, based upon Sutter County Assessor records, the Discharger owned the property at 14990 Browning Road, and owned and operated the vehicle fueling system located at the subject site (the Site) prior to and during the removal of said fueling system in July 1997, when an unauthorized release from the system was discovered. The Site is located at 14990 Browning Road on the northeast corner of Kirkville and Browning Roads near the town of Robbins in Sutter County.
2. According to California Secretary of State and Sutter County records AWIM, Inc., with Ms. Julie C. Nelson as Agent for Services of Process, as an active California corporation, purchased the property from R. G. Tucker & Sons on 17 May 2000. AWIM, Inc. operates a small trucking company at the Site with all fueling operations conducted offsite since May 2000. Sutter County records show AWIM, Inc. subsequently transferred the property to Ms. Nelson on 24 October 2006. The Site currently includes a shop next to the former fueling station, a single family residence, a mobile home, a truck garage, and one domestic supply well located within 100 feet of the former underground storage tank (UST). The UST was removed prior to the AWIM, Inc. purchase of the property (see No. 3 below). There is no evidence that AWIM, Inc. or Ms. Nelson caused, or contributed to, the release from the UST. When requested by representatives of the Discharger and Central Valley Water Board staff Ms. Nelson has provided Site access for the investigation. AWIM, Inc. and Ms. Nelson are not named as Dischargers in this Order because they did not cause or exacerbate the UST release, and to date have not denied access to the property. If access is denied, or evidence surfaces showing responsibility for the unauthorized release from the UST or subsequent fueling operations at the Site, then AWIM, Inc. and/or Ms. Nelson may be named Dischargers in a revised Order.

HISTORY

3. On 9 July 1997, a 500-gallon gasoline UST was removed at the Site. One soil sample taken at the base of the excavation reported total petroleum hydrocarbons as gasoline (TPHg), 820 milligrams per kilogram (mg/kg); benzene, 3.2 mg/kg; toluene, 4.5 mg/kg; ethylbenzene, 23 mg/kg; and xylenes, 132 mg/kg.
4. In August 1998 an investigation of soil and groundwater (four soil borings [SB-1 through SB-4] and five test pits) was conducted. Maximum soil concentrations were TPHg, 780 mg/kg; toluene, 5.9 mg/kg; ethylbenzene, 12 mg/kg; and xylenes, 48 mg/kg. Maximum grab groundwater concentrations were TPHg, 49,000 micrograms per Liter (ug/L); benzene, 1,200 ug/L; toluene, 3,300 ug/L; ethylbenzene, 940 ug/L; xylenes, 4,600 ug/L; and methyl tert-butyl ether (MTBE), 1.2 ug/L. Four monitoring wells (MW-1 through MW-4) were completed on-site in July 1999. Maximum groundwater monitoring results (MW-2) were TPHg, 34,000 ug/L; benzene, 320 ug/L; toluene, 2,200 ug/L; ethylbenzene, 610 ug/L; xylenes, 4,700 ug/L; MTBE, 3.4 ug/L; and naphthalene, 290 ug/L.
5. Although quarterly monitoring of MW-1 through MW-4 was directed by Central Valley Water Board staff in a letter dated 23 December 1998, no investigation/monitoring activities were conducted from late 1999 until November 2005 due to recalcitrance and non-compliance by the Discharger. Between November 2005 and December 2005, Central Valley Water Board staff sampled MW-1, MW-2, MW-3, and the Site domestic well. Impacts by petroleum constituents were identified in MW-3. As a result additional investigation was directed in a 7 October 2005 letter from Central Valley Water Board staff.
6. In September 2006, three borings (SB-1A, SB-2A, and SB-3A) were advanced inside of the warehouse, and three soil samples and five groundwater samples (borings SB-1A through SB-3A, MW-2 and MW-3) were taken during a site investigation. Maximum soil concentrations were TPHg, 4.9 mg/kg; benzene, 0.014 mg/kg; toluene, 0.06 mg/kg; ethylbenzene, 0.24 mg/kg; and xylenes, 0.69 mg/kg. Maximum grab groundwater concentrations were TPHg, 140,000 ug/L; benzene, 6,600 ug/L, toluene, 13,000 ug/L; ethylbenzene, 3,500 ug/L; and xylenes, 16,000 ug/L. Maximum groundwater monitoring concentration (MW-2) was MTBE, 3.4 ug/L.
7. In a Central Valley Water Board staff letter dated 4 May 2007, the Discharger was directed to conduct quarterly monitoring and to submit a work plan by 22 June 2007 to define the extent of the groundwater plume. To date, no groundwater monitoring has occurred, nor was the work plan submitted.
8. State Water Board Resolution No. 2009-0042 directs the Regional Water Boards to reduce monitoring requirements for UST cleanup sites to semi-annually or less frequent, unless site-specific needs warrant otherwise. Currently no monitoring wells are sampled; therefore, there are no data to support semi-annual monitoring. Because of the continuing petroleum hydrocarbon impacts and the threat to the nearby Site domestic supply well, the wells (including the domestic well) must be sampled quarterly until otherwise directed by Central Valley Water Board staff. All new monitoring wells to be installed must also be sampled quarterly until otherwise directed. A reduction to semi-annual sampling may be

requested by the Discharger following a reasonable demonstration of contaminant trends and extent. Groundwater monitoring results are evaluated with each submitted report to determine if additional reductions and/or cessation of monitoring is appropriate.

LEGAL PROVISION

9. CWC section 13267 states, in part:

(b)(1) In conducting an investigation . . . , the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or, discharging, or who proposes to discharge waste within its region . . . shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.

The reports required herein are necessary to assure protection of waters of the state, and to protect public health and the environment. The required report will allow the Central Valley Water Board to determine whether the Site is eligible for closure. The Discharger named in this Order owned the Site at the time the release was discovered.

10. CWC section 13268 states, in part:

(a)(1) Any person failing or refusing to furnish technical or monitoring program reports as required by subdivision (b) of Section 13267 . . . or falsifying any information provided therein, is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b).

(b)(1) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (a) in an amount which shall not exceed one thousand dollars (\$1,000) for each day in which the violation occurs.

(c) Any person discharging hazardous waste, as defined in Section 25117 of the Health and Safety Code, who knowingly fails or refuses to furnish technical or monitoring program reports as required by subdivision (b) of Section 13267, or who knowingly falsifies any information provided in those technical or monitoring program reports, is guilty of a misdemeanor, may be civilly liable in accordance with subdivision (d) ...

(d)(1) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (c) in an amount which shall not exceed five thousand dollars (\$5,000) for each day in which the violation occurs.

Failure to submit the required reports to the Central Valley Water Board according to the schedule detailed herein may result in enforcement action being taken against the Dischargers, which may include the imposition of administrative civil liability pursuant to CWC section 13268. Since petroleum constituents are considered hazardous waste under Health and Safety Code section 25117, the Central Valley Water Board may impose administrative civil liability of up to \$5,000 per day if the Dischargers fail to submit the required workplan by the date set forth below.

11. The California Code of Regulations, title 23, section 2720, defines a responsible party as:

... any person who owns or operates an underground storage tank used for the storage of a hazardous substance... any person who owned or operated the underground storage tank immediately before the discontinuation of its use... any owner of property where an unauthorized release of a hazardous substance from an underground storage tank has occurred, and any person who had or has control over a underground storage tank at the time of or following an unauthorized release of a hazardous substance.

A responsible party has a legal obligation to investigate and remediate contamination. The Discharger is subject to this Order because it owned the property where an unauthorized release of a hazardous substance from a UST has occurred. Therefore, the Discharger is a "person who has discharged ... waste" within the meaning of CWC section 13267.

12. Compliance with Central Valley Water Board directives is mandatory in order to be eligible for reimbursement of corrective action costs from the State's Underground Storage Tank Cleanup Fund according to California Code of Regulations, title 23, section 2812.2. All work should be performed according to the *Tri-Regional Recommendations for Preliminary Investigation and Evaluation of Underground Storage Tank Sites*, and permits required by State, County, and Local agencies. All reports must be submitted to the Central Valley Water Board.

REQUIRED ACTIONS

IT IS HEREBY ORDERED that, pursuant to CWC section 13267, the Discharger shall submit the following technical reports:

1. **Work Plan by 30 November 2010** to investigate the vertical and lateral extent of the groundwater plume.
2. **Groundwater Monitoring Reports** starting **30 January 2011** and continuing on until directed otherwise as stated below, both paper copies to this office and electronic copies to the State Water Resources Control Board's (State Water Board) GeoTracker database (see Reporting Section below).

As shown on Figure 1, which is attached hereto and made part of this Order, there are currently 4 groundwater monitoring wells associated with the Site (MW-1, MW-2, MW-3 MW-4) and 1 domestic well. All 5 wells, and any wells installed subsequent to the issuance of this Order, are to be monitored with results reporting on a quarterly basis until otherwise directed by Central Valley Water Board staff as detailed following.

Wells with free phase petroleum product or a visible sheen shall be monitored, at a minimum, for product thickness and depth to water, and the volume of extracted free phase product and groundwater shall be documented in the monitoring reports. Sample collection and analysis shall follow standard EPA protocol.

Monitoring Well	Frequency	Constituents Analyzed
MW-1	Quarterly	TPHg, BTEX ¹ , MTBE, Naphthalene
MW-2	Quarterly	TPHg, BTEX, MTBE, Naphthalene
MW-3	Quarterly	TPHg, BTEX, MTBE, Naphthalene
MW-4	Quarterly	TPHg, BTEX, MTBE, Naphthalene
Newly installed wells	Quarterly	TPHg, BTEX, MTBE, Naphthalene
Domestic Well ²	Quarterly	TPHg, BTEX, MTBE, Naphthalene

1 – BTEX – benzene, toluene, ethylbenzene, xylenes 2 – and all new wells

Constituents	EPA Analytical Method	Maximum Practical Quantitation Limit ¹ (µg/l)
Total Petroleum Hydrocarbons as gasoline	8015M or 8260B	50
Benzene	8020 or 8260B	0.5
Toluene	8020 or 8260B	0.5
Ethylbenzene	8020 or 8260B	0.5
Xylene	8020 or 8260B	0.5
MTBE	8020 or 8260B	0.5
Naphthalene	8260B	0.5

1- For nondetectable results. All concentrations between the Method Detection Limit and the Practical Quantitation Limit shall be reported as trace.

REPORTING

- When reporting data, the Discharger shall arrange the information in tabular form so that the date, the constituents, and the concentrations are readily discernible. The data shall be summarized in such a manner as to illustrate clearly the compliance with this Order.
- As required by the California Business and Professions Code sections 6735, 7835, and 7835.1, all reports shall be prepared by a registered professional or their subordinate and signed by the registered professional.
- The Discharger shall submit quarterly hard-copy monitoring reports to the Central Valley Water Board by the **30th day of the first month following the end of each quarter (i.e. by 30 January, 30 April, 30 July and 30 October)** until such time as the Executive Officer determines that the reports are no longer necessary. Semi-annual and annual data reporting is to be included with the applicable quarterly report. In addition, concurrently with the hard-copy reports, the Discharger shall submit electronic copies of the reports and electronic data reports, which conform to the requirements of the California Code of Regulations, Title 23, Division 3, Chapter 30, over the Internet to the State Water Board's Geographic Environmental Information Management System (Geotracker) database system at <https://geotracker.waterboards.ca.gov>. Electronic submittals shall comply with GeoTracker standards and procedures as specified on the State Water Board's web site. All reports must follow the *Appendix A - Reports, Tri-Regional Recommendations for Preliminary Investigation and Evaluation of Underground*

Storage Tank Sites (Appendix A - Reports), which is attached and made a part of this Order. Each quarterly report shall include the following minimum information:

- a) A description and discussion of the groundwater sampling event and results, including trends in the concentrations of pollutants and groundwater elevations in the wells, how and when samples were collected, and whether the pollutant plume(s) is delineated.
- b) Field logs that contain, at a minimum, water quality parameters measured before, during, and after purging, method of purging, depth of water, volume of water purged, etc.
- c) Groundwater contour maps for all groundwater zones, if applicable.
- d) Isocontour pollutant concentration maps for all groundwater zones, if applicable.
- e) A table showing well construction details such as well number, groundwater zone being monitored, coordinates (longitude and latitude), ground surface elevation, reference elevation, elevation of screen, elevation of bentonite, elevation of filter pack, and elevation of well bottom.
- f) A table showing historical lateral and vertical (if applicable) flow directions and gradients.
- g) Cumulative data tables containing the water quality analytical results and depth to groundwater.
- h) A copy of the laboratory analytical data report.
- i) If applicable, the status of any ongoing remediation, including cumulative information on the mass of pollutant removed from the subsurface, system operating time, the effectiveness of the remediation system, and any field notes pertaining to the operation and maintenance of the system.
- j) If applicable, the reasons for and duration of all interruptions in the operation of any remediation system, and actions planned or taken to correct and prevent interruptions.

This Order is effective upon the date of signature.

Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with CWC section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must

be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:

http://www.waterboards.ca.gov/public_notices/petitions/water_quality
or will be provided upon request.

Ordered by:

original signed by

PAMELA C. CREEDON
Executive Officer

11 October 2010

(Date)