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10 **STATE OF CALIFORNIA**
11 **REGIONAL WATER QUALITY CONTROL BOARD**
12 **CENTRAL VALLEY REGION**

13 CAO No. R5-2011-0713

14 **IN RE: CLEANUP AND ABATEMENT**
15 **ORDER R5-2004-0713, ISSUED TO**
16 **TBS PETROLEUM, L.L.C., ANTLERS**
17 **SHELL/SUBWAY, 20884 ANTLER'S**
18 **ROAD, LAKEHEAD, SHASTA**
19 **COUNTY**

20 **DECLARATION OF**
21 **DECLARATION OF ERIC J. HOLM**

22 CAO Issued Dec. 6, 2011
23 Hearing Date: June 7-8, 2012

24 I, Eric J. Holm, hereby declare:

25 1. I am an environmental consultant with the Antea Group, located at 11050 White Rock
26 Road, Suite 110, Rancho Cordova, California. I have personal knowledge of the following facts
27 and if called as a witness could and would competently testify thereto.

28 2. I received my Bachelor of Science degree in Geology from the University of
California at Berkeley, and my Master of Science degree in Geology from the University of
California at Davis.

3. I have been a registered and professional Geologist, license number 5880, in California
since March 3 1994.

4. I have over twenty (25) years of experience in UST investigation and remediation work
in the State of California, and other western states. My work began with field work and has
expanded to project and portfolio/client management.

1 5. For the last fifteen (15) years, I have worked closely with the California UST Cleanup
2 Fund and "B", "C" and "D" level Fund claimants. I represent them in filing applications for
3 eligibility (in other words, helping them qualify for Letters of Commitment from the UST
4 Cleanup Fund), filing reimbursement requests (again, helping them prepare reimbursement
5 requests), preparing assignments and "on behalf" agreements (helping parties manage the details
6 of correctly applying to the Fund and qualifying for submission of reimbursement requests), and
7 working on compliance issues and related aspects of the UST Fund program. In this work over
8 the last 15 years, I have worked a lot with the Fund staff and with a variety of clients and projects,
9 from the smallest individual sites with home oil heating tanks to multi-national corporations.

10 6. I served on the task force appointed by the State Water Resources Control Board in
11 2010 for the UST Fund, and continue to work with the Fund Interest Group. I also am the parent
12 leader of our local high school band program, and served on the local school board for our K-8
13 school district. I am a consultant member of the California Independent Oil Marketers
14 Association.

15 7. In summary, I advise and work with private clients, particularly with the financial and
16 compliance aspects of the UST Fund program and the related remediation activities required by
17 Regional Boards, counties and local agencies throughout California.

18 6. For this matter, I have reviewed:

19 A. Draft Cleanup and Abatement Order, Sept. 23, 2011, for the Antlers
20 Shell/Subway site in Lakehead, Shasta County;

21 B. Final Cleanup and Abatement Order, Dec. 6, 2011 for the site.

22 C. Statement of Rationale of April 24, 2012 by the Executive Officer of the
23 Central Valley Regional Water Quality Control Board.

24 D. A "two scenarios" letter of April 20, 2012 letter from the UST Cleanup Fund
25 to TBS Petroleum, LLC.

26 Copies of these documents are attached to this Declaration as Exhibits A, B, C, and D.

27 7. In reviewing these documents I note that there is concern about "compliance" with
28

1 directives of the Regional Board. It is true that compliance is a prerequisite for the UST Fund to
2 issue a Letter of Commitment, allowing a claimant into the Fund. And, compliance is required at
3 each phase of the work for which a claimant seeks reimbursement. However, as a practical
4 matter, not being "in compliance" at any specific point in time is not what is required in the day to
5 day synchronization between the work needed to investigate and cleanup sites, and receive
6 reimbursement from the UST Fund. The oversight Regional Board, county, or other agency (for
7 instance, fire department) has the final authority -- and so the ability -- to get a responsible party
8 into compliance.

9 8. I have reviewed the Statement of Rationale (Exh. C), particularly as to the assertion, "It
10 is Unlikely that the UST Fund Will allow TBS to Access Funds." This document includes a
11 statement that both TBS and the former owner/operator, Davis, "have failed to undertake
12 voluntary measures to remediate the contamination that exists at the Site, and have not complied
13 with Board directives relating to the investigation and remediation of the Site." This conclusion
14 in the Statement of Rationale appears to be contradicted by statements in both the draft Cleanup
15 and Abatement Order (Exh. A) and the final Cleanup and Abatement Order (Exh. B). For the
16 draft CAO, see paragraphs 15 (approving TBS' workplan), 16 (TBS' report of the initial
17 investigation), 17 (TBS well sampling), and 18 (TBS sampling the on-site public water supply
18 well). I see no mention of any work by Davis, the former operator/owner of the Site. And, I do
19 understand from the Declaration of Anthony Ackernecht (para. 12) that TBS has spent \$90,000 in
20 doing work to control, investigate, and remediate the MTBE contamination on this Site.

21 And, as explained below, because it appears unlikely that TBS will be able to qualify for
22 the Fund with the Cleanup and Abatement Order as it now reads, I don't understand how spending
23 \$90,000.00 without an assurance of recovery from the Fund could be anything but good faith
24 compliance with directives and requirements for remediation of contamination at this Site.

25 9. The Statement of Rationale (Exh. C) also includes conclusions as to the UST Cleanup
26 Fund. It states that:

27 "...[E]ven if Mr. Davis [and TBS] are both named in the CAO, this does not mean
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1 that the UST Fund will automatically award funds to Davis. Furthermore, the Cleanup
2 Team believes that nothing in the UST Fund regulations precludes Mr. Davis from
3 transferring a UST Fund commitment (if he is eligible and does receive a commitment
4 from the Fund) to TBS, *even if he is not named in the CAO.*" (Emphasis in original.)

5 It appears to me, based on my experience over the years with the UST Cleanup Fund, that
6 this statement reflects an unfamiliarity with the practical aspects of obtaining reimbursements
7 from the Fund.

8 An applicant has to prove they are in compliance. If Mr. Davis is not named on the
9 Cleanup and Abatement Order, it is unclear how he could be "in compliance." There would be
10 nothing he would be "in or not in" "compliance with." Not including Mr. Davis on the Cleanup
11 and Abatement Order makes it extremely unlikely that the Fund would allow a claim from him.
12 This is unfair, because the Cleanup and Abatement Order deems Mr. Davis a discharger liable for
13 cleanup under Section 13304 of the Porter-Cologne Water Quality Act.

14 10. The UST Cleanup Fund, in a letter of April 20, 2012, has rejected an application by
15 TBS. (Exh. D) The Fund describes two scenarios in which TBS could be eligible. The first one
16 is if the tanks installed in 1997 were found to have caused the MTBE contamination. This
17 appears unlikely at this point because MTBE was found in the soils when the pre-1997 tanks were
18 installed (Finding No. 8, Cleanup and Abatement Order - Exh. B), and the post-1997 tanks have
19 tested tight since they were installed. (Declaration of Anthony Ackernecht (para. 18).)

20 The second scenario outlined by the UST Cleanup Fund includes an Assignment
21 Agreement between Mr. Davis and TBS. (Exh. D, p.3.)

22 11. If Davis is named in the Cleanup and Abatement Order, he can apply to the Fund
23 before he does any work. In fact, many owners/operators, if the circumstances warrant it and the
24 oversight agency agrees, do just that -- receive a directive, apply to the Fund, get a Letter of
25 Commitment, and then begin work. In such situations, the Fund and the UST Cleanup Program
26 work as they were designed to do, namely, steady progress towards a cost-effective and efficient
27 remediation and closure of the site for the release that occurred. The operator/owner of the USTs
28

1 when the release occurred receives the benefit of the financial assurance that is provided by the
2 UST Fund -- and which operator/owners are required to have by federal law. (Mr. Davis paid
3 into the Fund during his operation of the Site, TBS has paid \$420,000 into the UST Fund,
4 according to Declaration of Anthony Ackernecht (para. 3).)

5 12. Particularly at a time when the finances of this State are somewhat unpredictable --
6 and the future of the UST Fund is unpredictable -- a Cleanup and Abatement Order which does
7 not name the operator/owner at the time of a release does not benefit that owner/operator at all.

8 13. The net effect of the Cleanup Order here is that neither Davis nor TBS would ever
9 qualify for the UST Fund for the cleanup of the MTBE that has been found in the public drinking
10 water well on the Site.

11 I declare under penalty of perjury under the laws of the State of California that the
12 foregoing is true and correct. Executed this 10th day of May, 2010, at Rancho Cordova,
13 California.

14
15 Dated: May 10, 2012


ERIC J. HOLM

EXHIBIT A

DRAFT

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

CLEANUP AND ABATEMENT ORDER R5-2011-XXXX
FOR
TBS PETROLEUM, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY,
BOB G. DAVIS
CONCERNING
ANTLER'S SHELL/SUBWAY
20884 ANTLERS ROAD, LAKEHEAD, SHASTA COUNTY

This Order is issued to TBS Petroleum, LLC., a California Limited Liability Company, and Bob G. Davis (hereafter collectively referred to as "Dischargers"), based on provisions of Water Code section 13304 and Health and Safety Code section 25296.10, which authorize the Central Valley Regional Water Quality Control Board ("Central Valley Water Board," or "Board") to issue a Cleanup and Abatement Order (the "Order"), and Water Code section 13267, which authorizes the Central Valley Water Board to require the preparation and submittal of technical and monitoring reports.

The Executive Officer finds, with respect to the Dischargers' acts, or failure to act, the following:

PROPERTY OWNERSHIP

1. From about 1972 to present, several entities have owned the property at 20884 Antlers Road, Lakehead, Shasta County, (APN 083-340-034) (the "Site") and have stored and dispensed petroleum hydrocarbons from an underground storage tanks ("USTs") at the Site. The Site utilizes a transient non-community public supply well, which provides water to the gasoline station, mini mart, and Subway™ sandwich restaurant. The supply well is about 120 feet from the USTs and about 70 feet from the petroleum dispensers. A septic tank and leach lines are about 140 feet from the well. Refer to Attachment A, a part of this Order, for relevant site features.
2. According to Shasta County records, on 5 December 1972, Shell Oil Company completed construction of a two-bay service station at the Site. On 28 December 1983, Shell Oil Company granted Site ownership to Olan F. Bailey and Beverley A. Bailey. Shell Oil Company, Olan F. Bailey, and Beverly A. Bailey are not subject to this Order because current Central Valley Water Board records do not contain evidence of a waste discharge while they owned and operated the Site. Should information be submitted substantiating Shell Oil Company, Olan F. Bailey, and Beverly A. Bailey responsibility for waste discharge, the Central Valley Water Board may revise this Order to include these entities.
3. On 30 January 1990, Olan F. Bailey and Beverly A. Bailey granted Site ownership to Bob G. Davis (hereafter "Davis").

EXHIBIT A

4. On 20 April 2005, Bob G. Davis granted Site ownership to TBS Petroleum, LLC., a California Limited Liability Company (hereafter "TBS"). TBS currently owns and operates the public water supply well and UST system under a permit issued by the Shasta County Environmental Health Department ("SCEHD").

DISCHARGER RESPONSIBILITY

5. TBS is held primarily responsible for compliance with the obligations set forth in this Order based on the fact that it currently owns and operates the Site.
6. Davis has contended that he should be held secondarily responsible for compliance with the obligations set forth in this Order. However, secondary liability is inappropriate for the following reasons:
 - a. Water Code section 13304 authorizes the Central Valley Water Board to issue a Cleanup and Abatement Order to any person *who caused or permitted, causes or permits, or threatens to cause or permit, the discharge of waste where it is, or probably will be, discharged into the water of the State and creates, or threatens to create, a condition of pollution or nuisance.*
 - b. The State Water Board, in *In re: Prudential Insurance Company of America* (Order No. WQ 87-6), stated that two of the "specific and unique facts" that allow a Regional Water Board to name a party as secondarily liable are "the [Discharger] did not in any way initiate or contribute to the actual discharge or waste" and "the site investigation and cleanup are proceeding well." Here, evidence in the Board's files indicates that the unauthorized releases occurred when Davis owned the Site, and the Board has concluded that the Site investigation and cleanup are not progressing in a timely manner.
 - c. State Water Board precedential Orders finding secondary liability (the responsibility to act if the primarily-named party fails to do so) *In the Matter of the Petition of U.S. Department of Agriculture, Forest Service* (Order No. WQ 86-18) *In the Matter of the Petition of Valco Park, LTD* (Order No. WQ 86-18), *In the Matter of the Petition of Prudential Insurance Company of America* (Order No. WQ 87-6), *In the Matter of the Petition of William Schmidl* (Order No. WQ 89-1), *In the Matter of the Petition of Arthur Spitzer, et al.* (Order No. WQ 89-8), *In the Matter of the Petition of San Diego Unified Port District* (Order No. WQ 89-12), *In the Matter of the Petition of San Diego Unified Port District* (Order No. WQ 90-3), *In the Matter of the Petitions of Wenwest, Inc., et al.* (Order No. 92-13) almost exclusively assign secondary responsibility only to *current* property owners or long-term lessors, and assign primary responsibility to the tenants who are satisfactorily proceeding with cleanup operations. Secondary responsibility is not appropriate for an individual who actually discharged the

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contamination that has led to the water-quality impacts and where the cleanup is not progressing in a timely manner.

- d. Davis asks that the Board "consider the equities" in his plea for secondary liability. However, the footnote that is cited in support of the equitable claim also comments that the two factors that should receive consideration include, "(1) whether or not the party initiated or contributed to the discharge; and (2) whether those parties who created or contributed to the discharge are proceeding with cleanup." (*In the Matter of the Petitions of Aluminum Company of America*, WQO 93-9). Davis initiated the discharge, as he owned the Site and operated the UST system at the time of the initial discharges, and the cleanup is not proceeding.

BACKGROUND

7. In 1997, SCEHD permitted Davis to operate the on-site well (Water System No. 4500215) and one 6,000-gallon double-walled diesel UST, two single-walled gasoline USTs (one 12,000 gallon and one 8,000 gallon), and one single-walled 6,000 gallon diesel UST. On 9 October 1997, the single-walled USTs and associated piping were removed.
8. On 10 and 21 October 1997, following the UST and piping removal, SCEHD directed Davis to collect soil samples. Two soil samples, collected from the tank cavity at about 11 feet below ground surface, contained Methyl t-butyl ether (MTBE) at 0.033 mg/Kg and 0.085 mg/Kg. Benzene, Toluene, Ethylbenzene, Xylenes, Total Petroleum Hydrocarbons as gasoline (TPHg) and diesel (TPHd) were not detected. SCEHD records indicate no obvious odor or soil discoloration. Two soil samples from four dispenser locations detected Toluene at 0.009 mg/kg and 0.013 mg/Kg, Xylenes at 0.010 mg/Kg, and MTBE at 0.030 mg/Kg. Benzene, Ethylbenzene, TPHg, and TPHd were not detected. Groundwater was not encountered in the tank cavity and a water sample was not collected from the on-site well.
9. On or about 22 October 1997, Davis installed two double-walled gasoline USTs (one 12,000-gallon and one 8,000-gallon) in the former UST cavity. Pressurized double-walled flex hose connects one or more of the five existing petroleum dispensers to the USTs. Dispenser pans are installed and the UST vapor return lines are single-walled pipe.
10. On 16 December 1997, SCEHD issued Davis a no further action required letter ("NFAR") to close the UST removal file. The NFAR states;

"Nothing in this determination shall construe or be construed as a satisfaction or release from liability from any conditions or claims arising as a result of past, current, or future operations at the site. Nothing in this determination is intended or shall be construed to limit the rights of any parties, with respect to claims arising out of or relating to, deposit or disposal at any other location of substances removed from the site. Nothing in this

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determination is intended or shall be construed to preclude the Shasta County Department of Resource Management, Environmental Health Division or any other agency from taking any other enforcement actions. This letter does not relieve the tank owner and property owner of any responsibilities mandated under the California Health and Safety Code, California Water Code, and Shasta County ordinances if existing, additional, or previously unidentified contamination at the site causes or threatens to cause pollution or nuisance, or is found to pose a threat to public health or water quality."

11. On 14 July 2003, SCEHD inspected the water system and required Davis to install a chlorination system to prevent positive bacteriological samples and to add volatile organic chemicals ("VOCs"), including MTBE, to the sampling schedule. Davis retained CR Water Treatment-Chuck Goff (Certified Water Distribution Operator #16818) to oversee the water system operation. The 8 January 2004 well sampling by CR Water Treatment found the water supply had chloroform at 50 µg/L, bromodichloromethane at 3.2 µg/L, and trihalomethanes at 54 µg/L. Other analyzed VOCs, including MTBE, were below laboratory reporting limits.

12. On 8 August 2007, a water sample from the supply well collected by CR Water Treatment detected 14.9 µg/L of MTBE. Subsequently, CR Water Treatment submitted written notice through Davis stating;

"In early 2007, the Shell station had a water leak over the fuel tanks which flooded the area for several months before it was located and stopped. The subsequent routine MTBE test started showing it's presence in the well water after this (flooding) incident."

13. Davis contends that an underground leak is the primary contributor to the spread of MTBE in groundwater. TBS disputes the underground water leak and indicates that the Site received substantial rainfall in early 2007. According to California Department of Water Resources, between October 2006 and July 2007, a total of 40.44 inches of rain was reported at the Shasta Dam (USBR) station, which is about 10 miles from the Site. Regardless of whether any leak exacerbated pollution found in groundwater at the Site, Davis is liable for the cleanup due to the fact that Davis owned the site when the unauthorized discharge occurred.

14. On 4 March 2008, SCEHD referred lead agency responsibility for the UST case to the Central Valley Water Board. On 25 June 2008, Central Valley Water Board staff jointly requested that TBS and Davis submit a Preliminary Site Assessment Work Plan to determine the extent of pollution and a survey of sensitive receptors affected or threatened by the release.

SITE INVESTIGATION

15. On 17 November 2008, Central Valley Water Board staff approved the *Letter Workplan; Boring Installation Antlers Shell-Subway* ("Work Plan"), which was submitted by LACO Associates. The Work Plan was submitted on behalf of TBS in response to a second staff request dated 25 July 2008 for the Dischargers to

investigate petroleum pollution in the on-site domestic well. Davis did not submit a work plan.

16. On 4 March 2009 a *Report of Findings, Initial Subsurface Investigation* was submitted by LACO Associates. The report contained the results of a limited subsurface investigation at the Site, as well as a sensitive receptor survey. Eight direct-push borings were completed to sample subsurface soil and collect grab samples of groundwater. The tables below summarize soil and groundwater analytical data from the LACO report. Several petroleum constituents were detected in subsurface soil and groundwater including TPHg, Benzene, Toluene, Ethylbenzene, Xylene, MTBE, tertiary-butyl alcohol (TBA), and tertiary-amyl methyl ether (TAME). The maximum concentration of MTBE observed in soil was about 1,900 µg/kg; the maximum concentration of MTBE observed in groundwater was about 49,000 µg/L.

Soil Analytical Data
From LACO, Report of Findings, Initial Subsurface Investigation

Sample ID	Depth (Ft)	TPHg	Benzene	Toluene	Ethylbenzene	Total Xylenes	MTBE	TBA	TAME
B1 1/19/09	5	ND	ND	ND	ND	ND	ND	ND	ND
	9	ND	ND	ND	ND	ND	ND	ND	ND
	15	ND	ND	ND	0.011	0.013	0.017	0.012	ND
	19	ND	ND	ND	0.011	0.0091	0.14	0.061	ND
	24	ND	0.015	ND	0.013	0.018	1.2	0.351	0.0073
	28	1.2	0.091	ND	0.1	0.12	1.9	0.421	0.011
B2 1/20/09	5	ND	ND	ND	ND	ND	ND	0.19	ND
	10	ND	ND	ND	ND	ND	0.015	0.11	ND
	14	ND	ND	ND	ND	ND	0.12	0.15	ND
	20	ND	ND	ND	ND	ND	0.33	0.28	ND
	26	ND	ND	ND	ND	ND	0.26	0.20	ND
B3 1/20/09	5	ND	ND	ND	ND	ND	ND	ND	ND
	10	ND	ND	ND	ND	ND	ND	ND	ND
	14	ND	ND	ND	ND	ND	ND	ND	ND
	20	ND	ND	ND	ND	ND	ND	0.0073	ND
	26	ND	ND	ND	ND	ND	0.028	0.054	ND
B5 1/21/09	5	ND	ND	ND	ND	ND	ND	ND	ND
	10	910	ND	ND	5.6	16	ND	ND	ND
	14	ND	ND	ND	ND	ND	ND	ND	ND
	20	ND	ND	ND	0.029	0.12	0.028	0.011	ND
	25	2.1	0.017	0.0077	0.11	0.26	0.037	0.017	ND
B6 1/22/09	5	ND	ND	ND	ND	ND	ND	ND	ND
	10	88	ND	ND	0.11	0.41	ND	ND	ND
	15	1.6	ND	0.043	0.024	0.23	0.027	0.014	ND
	20	1.5	ND	0.092	0.033	0.28	0.048	0.020	ND
B8 1/23/09	5	ND	ND	ND	ND	ND	0.040	ND	ND
	10	ND	ND	ND	ND	ND	0.25	0.59	ND

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Sample ID	Depth (Ft)	TPHg	Benzene	Toluene	Ethyl-benzene	Total Xylenes	MTBE	TBA	TAME
	14	ND	ND	ND	ND	ND	0.034	0.088	ND
	20	ND	ND	ND	ND	ND	ND	0.030	ND

ND = Not detected in sample above laboratory reporting limits
 All other oxygenates were non-detect
 All samples collected from Soil Boring B4 on 1/21/09 (5, 10, 14, 20, and 25 feet) were non-detect
 All samples collected from Soil Boring B7 on 1/22/09 (5, 10, and 15 feet) were non-detect

**Groundwater Analytical Data
 From LACO, Report of Findings, Initial Subsurface Investigation**

Sample ID	Depth (Ft)	TPHg	Benzene	Toluene	Ethyl-benzene	Total Xylenes	MTBE	TBA	TAME
B1 1/19/09	28	10,000	1,700	35	1,100	1,200	14,000	2,100	69
	37-41	1,600	160	ND	21	30	2,900	400	7.9
B2 1/20/09	26	ND	14	ND	ND	ND	4,300	1,600	24
	36-40	ND	ND	ND	ND	ND	49,000	8,200	290
B3 1/20/09	26	120	16	ND	ND	ND	240	270	1.3
	30-34	ND	27	ND	ND	ND	26,000	5,000	140
B4 1/21/09	25	ND	4.3	ND	2.5	3.0	6.3	ND	ND
	29-33	ND	ND	ND	ND	ND	8.9	6.7	ND
B5 * 1/21/09	25	4,800	60	22	140	290	200	69	2.8
	35-38	13,000	680	270	660	2,300	1,200	160	12
B6 1/22/09	25	37,000	240	5,400	1,400	9,300	800	160	ND
	36-40	11,000	260	32	560	950	460	140	6.1
B7 1/22/09	25	330	1.7	1.2	ND	7.3	40	32	ND
	36-40	320	ND	ND	6.7	ND	7.6	42	ND
B8 1/23/09	25	200	33	ND	ND	ND	740	720	3.8
	30-34	ND	ND	ND	ND	ND	14,000	2,800	79

ND = Not detected in sample above laboratory reporting limit
 All other oxygenates not detected in any samples with the exception of Ethanol at 9.9 ug/l in Sample B7 at 25 feet.

***The following volatile organic compounds were detected in water samples collected from Soil Boring B5:**
25 Feet: Isopropyl benzene (4.4 ug/l), n-Propylbenzene (12 ug/l), 1,3,5-Trimethylbenzene (120 ug/l), n-Butylbenzene (0.98 ug/l), and Napthalene (31 ug/l). All others non-detect.
35-38 Feet: Isopropyl benzene (32 ug/l), n-Propylbenzene (87 ug/l), 1,3,5-Trimethylbenzene (160 ug/l), 1,2,4-Trimethylbenzene (840 ug/l), sec-Butylbenzene (5.5 ug/l), p-Isopropyltoluene (3.1 ug/l), n-Butylbenzene (7.2 ug/l), and Napthalene (140 ug/l). All others non-detect.

17. In conjunction with the site sensitive receptor survey, LACO sampled 7 domestic wells located within 1,000 of the site. Six of the seven well samples were non-detect for MTBE, however the sample from APN 830-340-08 contained 0.13 ug/L MTBE. This well was non-operational at the time of sampling.

18. TBS has collected at least 12 water samples confirming the presence of MTBE in the on-site public water supply well since August 2007. The minimum, average,

and maximum concentrations MTBE concentrations are 8.32 µg/L, 20.45 µg/L, and 44 µg/L, respectively.

19. On 27 April 2010, Central Valley Water Board issued an *Order to Submit Information Pursuant to California Water Code Section 13267* (the "13267 Order"), jointly to TBS and Davis. The 13267 Order required the submittal of two work plans. The first was a work plan to further mitigate post-treatment pollution from the on-site domestic well. TBS responded to this request. The second workplan was for further site investigation of pollutant flow paths through colluvium and fractured bedrock sufficient to evaluate the on-site domestic well as a pollution conduit, correlate with identified pollution in on and off-site receptor wells, and define pollution extent. Neither party has submitted the second required workplan.

AUTHORITY – LEGAL REQUIREMENTS

20. Water Code section 13304(a) provides that:

Any person ... who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board clean up the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including but not limited to, overseeing cleanup and abatement efforts. A cleanup and abatement order issued by the state board or a regional board may require the provision of, or payment for, uninterrupted replacement water service, which may include wellhead treatment, to each affected public water supplier or private well owner. Upon failure of any person to comply with the cleanup or abatement order, the Attorney General, at the request of the regional board, shall petition the superior court for that county for the issuance of an injunction requiring the person to comply with the order. In the suit, the court shall have jurisdiction to grant a prohibitory or mandatory injunction, either preliminary or permanent, as the facts may warrant.

21. Water Code section 13304(f) provides that:

Replacement water provided pursuant to subdivision (a) shall meet all applicable federal, state and local drinking water standards and shall have comparable quality to that pumped by the public water system or private well owner prior to the discharge of waste

22. Water Code section 13267(b)(1) provides that:

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

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region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters 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.

23. Water Code section 13304(c)(1) provides that:

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

24. The State Water Resources Control Board ("State Water Board") has adopted Resolution No. 92-49, *Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under Water Code Section 13304* ("Resolution 92-49"). Resolution 92-49 sets forth the policies and procedures to be used during an investigation and cleanup of a polluted site, and requires that cleanup levels be consistent with State Water Board Resolution No. 68-16, the *Statement of Policy With Respect to Maintaining High Quality of Waters in California*. ("Resolution 68-16") Resolution 92-49 and the Basin Plan establish the cleanup levels to be achieved. Resolution 92-49 requires the waste to be cleaned up in a manner that promotes attainment of either background water quality, or the best water quality which is reasonable if background levels of water quality cannot be restored. Any alternative cleanup level to background must: (1) be consistent with the maximum benefit to the people of the state; (2) not unreasonably affect present and anticipated beneficial use of such water; 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 Water Board. Resolution 92-49 directs that investigation proceed in a progressive sequence. To the extent practical, it directs the Central Valley Water Board to require and review for adequacy written work plans for each element and phase, and the written reports that describe the results of each phase of the investigation and cleanup.

CLEANUP AND ABATEMENT ORDER R5-2011-XXXX
TBS PETROLEUM LLC, MR. BOB G. DAVIS
ANTLERS SHELL/SUBWAY
LAKEHEAD, SHASTA COUNTY

25. The Central Valley Water Board's *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, 4th Edition* (hereafter "Basin Plan") designates beneficial uses of the waters of the State, establishes water quality objectives (WQOs) to protect these uses, and establishes implementation policies to implement WQOs. The designated beneficial uses of the groundwater beneath the Site are domestic, municipal, industrial, and agricultural supply.
26. Chapter IV of the Basin Plan contains the *Policy for Investigation and Cleanup of Contaminated Sites*, which sets forth the Central Valley Water Board's policy for managing contaminated sites. The policy strategy generally outlines a process that includes site investigation, source removal or containment, information required to be submitted for consideration in establishing cleanup levels, and the bases for establishment of soil and groundwater cleanup levels.
27. The State Water Board adopted the *Water Quality Enforcement Policy*, which states in part:
- At a minimum, cleanup levels must be sufficiently stringent to fully support beneficial uses, unless the RWQCB allows a containment zone. In the interim, and if restoration of background water quality cannot be achieved, the CAO should require the discharger(s) to abate the effects of the discharge. Abatement activities may include the provision of alternate water supplies.
(Enforcement Policy, p. 19.)*
28. The wastes detected at the Site are not naturally occurring, and some are known human carcinogens. These wastes impair or threaten to impair the beneficial uses of the groundwater.
29. The Basin Plan contains a narrative WQO for chemical constituents which requires, in part, that groundwater not contain chemical constituents in concentrations that adversely affect any beneficial use. For groundwaters that are designated MUN, such as the groundwater beneath the Site, the Basin Plan incorporates by reference drinking water maximum contaminant levels ("MCLs") promulgated in the California Code of Regulations, title 22, chapter 15 ("Title 22"). Furthermore, Basin Plan also contains narrative WQOs that apply to groundwater for tastes and odors and for toxicity. The taste and odor WQO requires, in part, that groundwater not contain substances in concentrations that cause nuisance, adversely affect beneficial uses, or impart undesirable tastes and odors to municipal and domestic water supplies. The toxicity WQO requires, in part, that groundwater be maintained free of toxic substances in concentrations that produce detrimental physiological responses in humans.

30. Chapter IV of the Basin Plan contains the *Policy for Application of Water Quality Objectives*, which provides that "[w]here compliance with narrative objectives is required (i.e., where the objectives are applicable to protect specified beneficial uses), the Central Valley Water Board will, on a case-by-case basis, adopt numerical limitations in orders which will implement the narrative objectives." Testing of petroleum hydrocarbons has identified a number of constituents that are not present in groundwater unaffected by the discharge and that could exceed a narrative WQO. All of these are constituents of concern. The numerical limits for the constituents of concern listed in the following table implement the Basin Plan WQOs.

Constituent	Limits ($\mu\text{g/L}$)	WQO	Reference
Benzene	0.15	Toxicity	California Public Health Goal (OEHHA)
Toluene	42	Taste and Odor	Federal Register, Vol. 54, No. 97
Ethylbenzene	29	Taste and Odor	Federal Register, Vol. 54, No. 97
Total Xylenes	17	Taste and Odor	Federal Register, Vol. 54, No. 97
Ethylene dichloride	0.4	Toxicity	California Public Health Goal (OEHHA)
	0.5	Chemical Constituents	California Primary MCL
Methyl t-butyl ether	5	Taste and Odor	California Secondary MCL (CDPH)
Tert-Butyl alcohol	12	Toxicity	California Drinking Water Notification Level (CDPH)
Naphthalene	2.9	Toxicity	California Proposition 65 Safe Harbor Drinking Water Level. (OEHHA)
Gasoline	5	Tastes and Odor	McKee & Wolf, Water Quality Criteria, SWRGB, p. 230
OEHHA - Office of Environmental Health Hazard Assessment			

31. The constituents listed in Findings No. 7, and 15 are wastes as defined in Water Code section 13050(d). The groundwater exceeds the WQOs for the constituents listed in Findings Nos. 8 and 11. Exceeding applicable WQOs is indicative of impairment to the beneficial uses of the groundwater, and thereby constitutes pollution as defined in Water Code section 13050(l)(1).

32. The constituents listed in Finding No. 30 are present in groundwater due to the wastes from discharge, are injurious to health or impart objectionable taste and odor when present in drinking water.

DISCHARGER LIABILITY

33. As described in Findings Nos. 3-6 and 13, the Dischargers are subject to an order pursuant to Water Code section 13304 because the Dischargers have caused or permitted, or threatened to cause or permit, waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and have created, or threatened to create, a condition of pollution or nuisance. The condition of pollution is a priority violation and issuance or adoption of a cleanup and abatement order pursuant to Water Code section 13304 and Health and Safety

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CLEANUP AND ABATEMENT ORDER R5-2011-XXXX
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Code section 25296.10 is appropriate and consistent with policies of the Central Valley Water Board.

34. This Order requires investigation and cleanup of the Site in compliance with the Water Code, the applicable Basin Plan, State Water Board Resolution No. 92-49, and other applicable Central Valley Water Board's plans, policies, and regulations.
35. As described in Findings Nos. 3-6 and 13, the Dischargers may be ordered to submit technical and monitoring reports pursuant to Water Code section 13267 because existing data and information about the Site indicate that waste has been discharged, is discharging, or is suspected of discharging, at the property, which is or was owned and/or operated by the Dischargers named in this Order. The technical reports required by this Order are necessary to assure compliance with Water Code section 13304 and Health and Safety Code section 25296.10, to adequately investigate and clean up the Site to protect the beneficial uses of waters of the state, to protect against nuisance, and to protect human health and the environment.
36. The issuance of this Order is an enforcement action taken by a regulatory agency and is exempt from the provisions of the California Environmental Quality Act ("CEQA") (Pub. Resources Code § 21000 et seq.) in accordance with California Code of Regulations, title 14, section 15321(a)(2). The issuance of this Order is also an action to assure the restoration of the environment and is exempt from the provisions of CEQA in accordance with California Code of Regulations, title 14, sections 15308 and 15330.

REQUIRED ACTIONS

IT IS HEREBY ORDERED that, pursuant to Water Code sections 13267 and 13304, as well as Health and Safety Code section 25296.10, TBS Petroleum, LLC and Mr. Bob G. Davis shall abate the effects of waste discharges at, near, or down gradient of the Site as directed below.

1. Investigate the discharges of waste, clean up the waste, and abate the effects of the waste, forthwith, resulting from activities at Antler's Shell/Subway, 20884 Antlers Road, Lakehead, Shasta County, in conformance with State Water Board Resolution No. 92-49 *Policies and Procedures for Investigation and Cleanup and Abatement of Discharges Under Water Code Section 13304* and with the Central Valley Region's *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins* (in particular the Policies and Plans listed within the Control Action Considerations portion of Chapter IV). "Forthwith" means as soon as is reasonably possible. Compliance with this requirement shall include, but not be limited to, completing the tasks listed below.
2. Complete all work and reports in accordance with *Appendix A - Reports, Tri-Regional Recommendations for Preliminary Investigation and Evaluation of Underground Storage Tank Sites*, which can be found at:

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 TBS PETROLEUM LLC, MR. BOB G. DAVIS
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 LAKEHEAD, SHASTA COUNTY

[http://www.waterboards.ca.gov/centralvalley/water_issues/underground storage tanks/](http://www.waterboards.ca.gov/centralvalley/water_issues/underground_storage_tanks/)

3. Complete all work under all permits required by State, County, and/or Local agencies.
4. The Dischargers are required to submit the following technical reports prepared in accordance with Appendix A - Reports by the listed dates:

Required Report/Task	Due No Later Than:
Additional Site Investigation Work Plan including On-site Domestic Well Investigation and Evaluation	1 December 2011
Implement Site Investigation Work Plan	1 March 2012
Additional Site Investigation Report	1 June 2012
Corrective Action Plan (Final)	1 December 2012
- Problem Assessment Report	1 June 2012
- Feasibility Study	1 September 2012
- Final Remediation Plan	1 December 2012
Complete Installation and Startup of Approved Remediation System	1 June 2013
Quarterly Status Reports - Reports due the 1 st day of the second* month following the end of the quarter	30 January 2012 - first report due

5. The Dischargers shall submit **Remedial Status Reports**, monthly for the first three months of active implementation and quarterly thereafter. The required Remedial Status Reports are necessary to monitor the effectiveness of the remedial system and its impact on the subsurface environment. The first monthly Remedial Status Report is due 45 days after system startup, and shall at minimum include background dissolved metals, pH, oxidation-reduction potential (ORP), total dissolved solids (TDS), electron acceptors, iron, manganese, metabolic acids, relevant hydraulic parameters, organic pollutants and their predicted breakdown products in the target volume, predicted behavior both in the target volume and identified surrounding sentry wells, and contingencies for controlling mobilized pollution beyond the target volume. Subsequently, each Remedial Status Report shall also include amendment injections, and the results of all appropriate shallow soil vapor and groundwater sampling. Remedial Status Reports are to be submitted during operation of the remedial system and for a minimum of four quarters following system shutdown.
6. The Dischargers shall submit **Quarterly Monitoring Reports**. All Monitoring Reports shall be submitted **by the 30th day of the month following the end of the calendar quarter** in which the samples are collected (i.e., by 30 July and 30 January). Monitoring reports shall include the results of all soil, soil vapor and

groundwater samples analyzed to date. Remedial Status Reports and Monitoring Reports should be combined and completed as a single report when both monitoring and remedial system sampling occur during the same quarter.

7. The Dischargers shall continue to provide appropriate, **uninterrupted** replacement water that meets all applicable federal, state, and local drinking water standards to affected parties, in compliance with Water Code section 13304(f and g). Appropriate uninterrupted replacement water may include, but is not limited to, continued maintenance of existing GAC units, and extension of piped potable water services.

GENERAL REQUIREMENTS

1. As required by the California Business and Professions Code sections 6735, 7835, and 7835.1, have appropriate reports prepared by, or under the supervision of, a registered professional engineer or geologist and signed by the registered professional. All technical reports submitted by the Dischargers shall include a cover letter signed by the Dischargers, or an authorized representative, certifying under penalty of law that the signer has examined and is familiar with the report and that to their knowledge, the report is true, complete, and accurate. The Dischargers shall also state if they agree with any recommendations/proposals and whether they approved implementation of said proposals.
2. Upon startup of any remediation system(s), operate the remediation system(s) continuously, except for periodic and required maintenance or unpreventable equipment failure. The Dischargers shall notify the Water Board within 24 hours of any unscheduled shutdown of the remediation system(s) that lasts longer than 48 hours. This notification shall include the cause of the shutdown and the corrective action taken (or proposed to be taken) to restart the system. Any interruptions in the operation of the remediation system(s), other than for maintenance, emergencies, or equipment failure, without prior approval from Regional Water Board staff or without notifying the Regional Water Board within the specified time is a violation of this Order. Within 7 working days of a shutdown, the Dischargers shall submit a Technical Report containing at a minimum, but not limited to the following information:
 - times and dates equipment were not working,
 - cause of shutdown,
 - if not already restarted, a time schedule for restarting the equipment, and,
 - a Cleanup Assurance Plan to ensure that similar shutdowns do not reoccur. Proposed Cleanup Assurance Plans are to be completed within 30 days of the system shutdown.

3. Notify Board staff at least three working days prior to any onsite work, testing, or sampling that pertains to environmental remediation and investigation and is not routine monitoring, maintenance, or inspection.
4. Obtain all local and state permits and access agreements necessary to fulfill the requirements of this Order prior to beginning the work.
5. Continue any remediation or monitoring activities until such time as the Executive Officer determines that sufficient cleanup has been accomplished to fully comply with this Order and this Order has been either amended or rescinded in writing.
6. Optimize remedial systems as needed to improve system efficiency, operating time, and/or waste removal rates, and report on the effectiveness of the optimization in the quarterly reports.
7. Maintain a sufficient number of monitoring wells to completely define and encompass the waste plume(s). If groundwater monitoring indicates the waste in groundwater has migrated beyond laterally or vertically defined limits during the quarter, then the quarterly monitoring reports must include a work plan and schedule, with work to begin within thirty days of Regional Water Board staff approval, to define the new plume limits.
8. Submit all written reports and analytical results to the Regional Water Board and electronic copies of all reports and analytical results over the Internet to the State Water Board Geographic Environmental Information Management System database (GeoTracker) at <http://geotracker.swrcb.ca.gov>. Electronic submittals shall comply with GeoTracker standards and procedures as specified on the State Board's web site.
9. All work and directives referenced in this Order are required regardless of whether or not the UST Cleanup Fund approves the work for reimbursement.

If, for any reason, the Dischargers are unable to perform any activity or submit any document in compliance with the schedule set forth herein, or in compliance with any work schedule submitted pursuant to this Order and approved by the Executive Officer, the Dischargers may request, in writing, an extension of the time specified. The extension request shall include justification for the delay. Any extension request shall be submitted as soon as the situation is recognized and no later than the compliance date. An extension may be granted by revision of this Order or by a letter from the Executive Officer. Extension requests not approved in writing by the Executive Officer with reference to this Order are denied.

If, in the opinion of the Executive Officer, the Dischargers fail to comply with the provisions of this Order, the Executive Officer may refer this matter to the Attorney General for judicial enforcement or may issue a complaint for administrative civil liability.

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CLEANUP AND ABATEMENT ORDER R5-2011-XXXX
TBS PETROLEUM LLC, MR. BOB G. DAVIS
ANTLERS SHELL/SUBWAY
LAKEHEAD, SHASTA COUNTY

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Failure to comply with this Order may result in the assessment of an Administrative Civil Liability of up to \$10,000 per violation per day pursuant to the Water Code sections 13268, 13350 and/or 13385. The Central Valley Water Board reserves its right to take any enforcement actions authorized by law.

Any person aggrieved by this action of the Central Valley Water Board may petition the State Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State 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.

This Order is effective upon the date of signature.

Original signed by

PAMELA C. CREEDON
Executive Officer

(Date)

EXHIBIT B



California Regional Water Quality Control Board
Central Valley Region
Katherine Hart, Chair



Matthew Rodriguez
Secretary for
Environmental Protection

415 Knollcrest Drive, Suite 100, Redding, California 96002
(530) 224-4845 • FAX (530) 224-4857
<http://www.waterboards.ca.gov/centralvalley>

Edmund G. Brown Jr.
Governor

6 December 2011

Mr. Tony Ackernelcht
TBS Petroleum, LLC
4544 Mountain Lakes Blvd.
Redding, CA 96003

**TRANSMITTAL, CLEANUP AND ABATEMENT ORDER R5-2004-0713, ISSUED TO
TBS PETROLEUM, LLC., ANTLERS SHELL/SUBWAY, 20884 ANTLER'S ROAD,
LAKEHEAD, SHASTA COUNTY.**

Enclosed is a signed copy of Cleanup and Abatement Order R5-20011-0713 (hereafter, "Order"). This Order is being issued pursuant to Water Code section 13304 to address discharges of waste and threatened discharges of waste. This Order requires TBS Petroleum, LLC (hereafter, "TBS") to cleanup and abate, forthwith, the effects of wastes discharged or threatened to be discharged to surface water drainage courses or groundwater. Specifically, TBS is directed to:

- By **1 March 2012**, submit an additional site investigation work plan including an on-site domestic well investigation and evaluation.
- By **1 June 2012**, implement site investigation work plan.
- By **1 September 2012**, submit an additional site investigation work plan (if required).
- By **1 March 2014**, complete all planning/implementing phases of a corrective action plan.

Failure to comply with the enclosed Order may result in further enforcement action pursuant to Water Code section 13350, which may result in civil liabilities of up to five thousand dollars (\$5,000) per day for each violation. In addition, the Board may seek injunctive relief by authorizing the Attorney General to petition the Superior Court for an injunction requiring compliance with the Order. The Court may grant a prohibitory injunction stopping all activities until compliance is achieved.

In order to conserve paper and postage, paper copies of this Order are only being provided to the Discharger. Electronic copies are available on the Central Valley Water Board's website at <http://www.swrcb.ca.gov/rwqcb5/>. Those without internet access can request a copy by contacting Central Valley Water Board staff. If you have any questions, please contact Clint Snyder of my staff at (530) 224-3213 or the letterhead address above.

PAMELA C. CREEDON
Executive Officer

cc: See Attached List

California Environmental Protection Agency

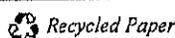


EXHIBIT B

cc: Robert Crandall, AEO, Central Valley Regional Water Quality Control Board, Redding
Patrick Pulupa, State Water Resources Control Board, Sacramento
Brian Newman, Central Valley Water Board, Rancho Cordova
Mark Kramer, Shasta County Department of Environmental Health, Redding
Kim Flanagan, California Department of Health Services, Redding
Josh Bloom, Barg, Coffin, Lewis & Trapp, LLP, San Francisco
Bob and Cheryl Davis, Redding
Loren Harlow, Stoel Rives, LLP, Sacramento
Paul and Irene Costa, Watsonville
Jim Wyatt, Lakehead
Ron Gasik, Lakehead
Jeff Childs, Lakehead
Juana Lewis, Lakehead
Larry McCracken, Lakehead
Ted Pudwill, Lakehead
Dan Huffman, Chatsworth

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

CLEANUP AND ABATEMENT ORDER R5-2011-0713
FOR
TBS PETROLEUM, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY
CONCERNING
ANTLER'S SHELL/SUBWAY
20884 ANTLERS ROAD, LAKEHEAD, SHASTA COUNTY

This Order is issued to TBS Petroleum, LLC, a California Limited Liability Company, (hereafter referred to as "TBS" or "Discharger"), based on provisions of Water Code section 13304 and Health and Safety Code section 25296.10, which authorize the Central Valley Regional Water Quality Control Board ("Central Valley Water Board," or "Board") to issue a Cleanup and Abatement Order (the "Order"), and Water Code section 13267, which authorizes the Central Valley Water Board to require the preparation and submittal of technical and monitoring reports.

The Executive Officer finds, with respect to the Discharger's acts, or failure to act, the following:

PROPERTY OWNERSHIP

1. From about 1972 to present, several entities have owned the property at 20884 Antlers Road, Lakehead, Shasta County, (APN 083-340-034)(the "Site") and have stored and dispensed petroleum hydrocarbons from an underground storage tanks ("USTs") at the Site. The Site utilizes a transient non-community public supply well, which provides water to the gasoline station, mini mart, and Subway™ sandwich restaurant. The supply well is about 120 feet from the USTs and about 70 feet from the petroleum dispensers. A septic tank and leach lines are about 140 feet from the well. Refer to Attachment A, a part of this Order, for relevant site features.
2. According to Shasta County records, on 5 December 1972, Shell Oil Company completed construction of a two-bay service station at the Site. On 28 December 1983, Shell Oil Company granted Site ownership to Olan F. Bailey and Beverley A. Bailey. Shell Oil Company, Olan F. Bailey, and Beverly A. Bailey are not subject to this Order because current Central Valley Water Board records do not contain evidence of a waste discharge while they owned and operated the Site. Should information be submitted substantiating Shell Oil Company, Olan F. Bailey, and Beverly A. Bailey responsibility for waste discharge, the Central Valley Water Board may revise this Order to include these entities.
3. On 30 January 1990, Olan F. Bailey and Beverly A. Bailey granted Site ownership to Bob G. Davis (hereafter "Davis").
4. On 20 April 2005, Bob G. Davis granted Site ownership to TBS Petroleum, LLC. TBS currently owns and operates the public water supply well and UST system under a permit issued by the Shasta County Environmental Health Department ("SCEHD").

DISCHARGER RESPONSIBILITY

5. TBS is responsible for complying with the obligations set forth in this Order based on the fact that it currently owns and operates the Site.
6. Davis has contended that he should not be named in this Order. The Board is hereby exercising its discretion to refrain from naming Davis in this Order, based on the decisions that have been rendered by the Shasta County Superior Court and the Third Appellate District Court. Both courts were called upon to interpret the terms of the purchase contract for the Site, and both courts concluded that these terms shift the responsibility for the investigation and cleanup of existing pollution from Davis to TBS. While the Board retains the authority to name Davis in this Order, it is also true that the Courts have determined that the contract between Davis and TBS allocated 100% of the responsibility for the cleanup to TBS. It is therefore reasonable for the Board to require TBS, and TBS alone, to fulfill the obligations imposed herein.

BACKGROUND

7. In 1997, SCEHD permitted Davis to operate the on-site well (Water System No. 4500215) and one 6,000-gallon double-walled diesel UST, two single-walled gasoline USTs (one 12,000 gallon and one 8,000 gallon), and one single-walled 6,000 gallon diesel UST. On 9 October 1997, the single-walled USTs and associated piping were removed.
8. On 10 and 21 October 1997, following the UST and piping removal, SCEHD directed Davis to collect soil samples. Two soil samples, collected from the tank cavity at about 11 feet below ground surface, contained Methyl t-butyl ether (MTBE) at 0.033 mg/Kg and 0.085 mg/Kg. Benzene, Toluene, Ethylbenzene, Xylenes, Total Petroleum Hydrocarbons as gasoline (TPHg) and diesel (TPHd) were not detected. SCEHD records indicate no obvious odor or soil discoloration. Two soil samples from four dispenser locations detected Toluene at 0.009 mg/kg and 0.013 mg/Kg, Xylenes at 0.010 mg/Kg, and MTBE at 0.030 mg/Kg. Benzene, Ethylbenzene, TPHg, and TPHd were not detected. Groundwater was not encountered in the tank cavity and a water sample was not collected from the on-site well.
9. On or about 22 October 1997, Davis installed two double-walled gasoline USTs (one 12,000-gallon and one 8,000-gallon) in the former UST cavity. Pressurized double-walled flex hose connects one or more of the five existing petroleum dispensers to the USTs. Dispenser pans are installed and the UST vapor return lines are single-walled pipe.

10. On 16 December 1997, SCEHD issued Davis a no further action required letter ("NFAR") to close the UST removal file. The NFAR states:

"Nothing in this determination shall construe or be construed as a satisfaction or release from liability from any conditions or claims arising as a result of past, current, or future operations at the site. Nothing in this determination is intended or shall be construed to limit the rights of any parties, with respect to claims arising out of or relating to, deposit or disposal at any other location of substances removed from the site. Nothing in this determination is intended or shall be construed to preclude the Shasta County Department of Resource Management, Environmental Health Division or any other agency from taking any other enforcement actions. This letter does not relieve the tank owner and property owner of any responsibilities mandated under the California Health and Safety Code, California Water Code, and Shasta County ordinances if existing, additional, or previously unidentified contamination at the site causes or threatens to cause pollution or nuisance, or is found to pose a threat to public health or water quality."

11. On 14 July 2003, SCEHD inspected the water system and required Davis to install a chlorination system to prevent positive bacteriological samples and to add volatile organic chemicals ("VOCs"), including MTBE, to the sampling schedule. Davis retained CR Water Treatment-Chuck Goff (Certified Water Distribution Operator #16818) to oversee the water system operation. The 8 January 2004 well sampling by CR Water Treatment found the water supply had chloroform at 50 µg/L, bromodichloromethane at 3.2 µg/L, and trihalomethanes at 54 µg/L. Other analyzed VOCs, including MTBE, were below laboratory reporting limits.
12. On 8 August 2007, a water sample from the supply well collected by CR Water Treatment detected 14.9 µg/L of MTBE. Subsequently, CR Water Treatment submitted written notice to whom it may concern stating:

"In early 2007, the Shell station had a water leak over the fuel tanks which flooded the area for several months before it was located and stopped. The subsequent routine MTBE test started showing it's presence in the well water after this (flooding) incident."

13. On 4 March 2008, SCEHD referred lead agency responsibility for the UST case to the Central Valley Water Board. On 25 June 2008, Central Valley Water Board staff jointly requested that TBS and Davis submit a Preliminary Site Assessment Work Plan to determine the extent of pollution and a survey of sensitive receptors affected or threatened by the release.

SITE INVESTIGATION

14. On 17 November 2008, Central Valley Water Board staff approved the *Letter Workplan; Boring Installation Antlers Shell-Subway* ("Work Plan"), which was submitted by LACO Associates. The Work Plan was submitted on behalf of TBS in response to a second staff request dated 25 July 2008 for the Dischargers to investigate petroleum pollution in the on-site domestic well. Davis did not submit a work plan.
15. On 4 March 2009 a *Report of Findings, Initial Subsurface Investigation* was submitted by LACO Associates. The report contained the results of a limited subsurface investigation at the Site, as well as a sensitive receptor survey. Eight direct-push borings were

completed to sample subsurface soil and collect grab samples of groundwater. The tables below summarize soil and groundwater analytical data from the LACO report. Several petroleum constituents were detected in subsurface soil and groundwater including TPHg, Benzene, Toluene, Ethylbenzene, Xylene, MTBE, tertiary-butyl alcohol (TBA), and tertiary-amyl methyl ether (TAME). The maximum concentration of MTBE observed in soil was about 1,900 µg/kg; the maximum concentration of MTBE observed in groundwater was about 49,000 µg/L.

Soil Analytical Data (mg/kg)
From LACO, Report of Findings, Initial Subsurface Investigation

Sample ID	Depth (Ft)	TPHg	Benzene	Toluene	Ethylbenzene	Total Xylenes	MTBE	TBA	TAME
B1 1/19/09	5	ND	ND	ND	ND	ND	ND	ND	ND
	9	ND	ND	ND	ND	ND	ND	ND	ND
	15	ND	ND	ND	0.011	0.013	0.017	0.012	ND
	19	ND	ND	ND	0.011	0.0091	0.14	0.061	ND
	24	ND	0.015	ND	0.013	0.018	1.2	0.351	0.0073
	28	1.2	0.091	ND	0.1	0.12	1.9	0.421	0.011
B2 1/20/09	5	ND	ND	ND	ND	ND	ND	0.19	ND
	10	ND	ND	ND	ND	ND	0.015	0.11	ND
	14	ND	ND	ND	ND	ND	0.12	0.15	ND
	20	ND	ND	ND	ND	ND	0.33	0.28	ND
	26	ND	ND	ND	ND	ND	0.26	0.20	ND
B3 1/20/09	5	ND	ND	ND	ND	ND	ND	ND	ND
	10	ND	ND	ND	ND	ND	ND	ND	ND
	14	ND	ND	ND	ND	ND	ND	ND	ND
	20	ND	ND	ND	ND	ND	ND	0.0073	ND
	26	ND	ND	ND	ND	ND	0.028	0.054	ND
B5 1/21/09	5	ND	ND	ND	ND	ND	ND	ND	ND
	10	910	ND	ND	5.6	16	ND	ND	ND
	14	ND	ND	ND	ND	ND	ND	ND	ND
	20	ND	ND	ND	0.029	0.12	0.028	0.011	ND
	25	2.1	0.017	0.0077	0.11	0.26	0.037	0.017	ND
B6 1/22/09	5	ND	ND	ND	ND	ND	ND	ND	ND
	10	88	ND	ND	0.11	0.41	ND	ND	ND
	15	1.6	ND	0.043	0.024	0.23	0.027	0.014	ND
	20	1.5	ND	0.092	0.033	0.28	0.048	0.020	ND
B8 1/23/09	5	ND	ND	ND	ND	ND	0.040	ND	ND
	10	ND	ND	ND	ND	ND	0.25	0.59	ND
	14	ND	ND	ND	ND	ND	0.034	0.088	ND
	20	ND	ND	ND	ND	ND	ND	0.030	ND

ND = Not detected in sample above laboratory reporting limits

All other oxygenates were non-detect

All samples collected from Soil Boring B4 on 1/21/09 (5, 10, 14, 20, and 25 feet) were non-detect

All samples collected from Soil Boring B7 on 1/22/09 (5, 10, and 15 feet) were non-detect

Groundwater Analytical Data (µg/l)
From LACO, Report of Findings, Initial Subsurface Investigation

Sample ID	Depth (Ft)	TPHg	Benzene	Toluene	Ethyl-benzene	Total Xylenes	MTBE	TBA	TAME
B1 1/19/09	28	10,000	1,700	35	1,100	1,200	14,000	2,100	69
	37-41	1,600	160	ND	21	30	2,900	400	7.9
B2 1/20/09	26	ND	14	ND	ND	ND	4,300	1,600	24
	36-40	ND	ND	ND	ND	ND	49,000	8,200	280
B3 1/20/09	26	120	16	ND	ND	ND	240	270	1.3
	30-34	ND	27	ND	ND	ND	26,000	5,000	140
B4 1/21/09	25	ND	4.3	ND	2.5	3.0	6.3	ND	ND
	29-33	ND	ND	ND	ND	ND	8.9	6.7	ND
B5 * 1/21/09	25	4,800	60	22	140	290	200	69	2.8
	35-38	13,000	680	270	660	2,300	1,200	160	12
B6 1/22/09	25	37,000	240	5,400	1,400	9,300	800	160	ND
	36-40	11,000	260	32	560	950	460	140	6.1
B7 1/22/09	25	330	1.7	1.2	ND	7.3	40	32	ND
	36-40	320	ND	ND	6.7	ND	7.6	42	ND
B8 1/23/09	25	200	33	ND	ND	ND	740	720	3.8
	30-34	ND	ND	ND	ND	ND	14,000	2,800	79

ND = Not detected in sample above laboratory reporting limit

All other oxygenates not detected in any samples with the exception of Ethanol at 9.9 ug/l in Sample B7 at 25 feet.

***The following volatile organic compounds were detected in water samples collected from Soil Boring B5:**

25 Feet: Isopropyl benzene (4.4 ug/l), n-Propylbenzene (12 ug/l), 1,3,5-Trimethylbenzene (120 ug/l), n-Butylbenzene (0.98 ug/l), and Napthalene (31 ug/l). All others non-detect.

35-38 Feet: Isopropyl benzene (32 ug/l), n-Propylbenzene (87 ug/l), 1,3,5-Trimethylbenzene (160 ug/l), 1,2,4-Trimethylbenzene (840 ug/l), sec-Butylbenzene (5.5 ug/l), p-Isopropyltoluene (3.1 ug/l), n-Butylbenzene (7.2 ug/l), and Napthalene (140 ug/l). All others non-detect.

16. In conjunction with the site sensitive receptor survey, LACO sampled 7 domestic wells located within 1,000 feet of the site. Six of the seven well samples were non-detect for MTBE, however the sample from APN 830-340-08 contained 0.13 ug/L MTBE. This well was non-operational at the time of sampling.

17. TBS has collected at least 12 water samples confirming the presence of MTBE in the on-site public water supply well since August 2007. The minimum, average, and maximum concentrations MTBE concentrations are 8.32 µg/L, 20.45 µg/L, and 44 µg/L, respectively.

18. On 27 April 2010, Central Valley Water Board issued an *Order to Submit Information Pursuant to California Water Code Section 13267* (the "13267 Order"), jointly to TBS and Davis. The 13267 Order required the submittal of two work plans. The first was a work plan to further mitigate post-treatment pollution from the on-site domestic well. TBS responded to this request. The second workplan was for further site investigation of pollutant flow paths through colluvium and fractured bedrock sufficient to evaluate the on-site domestic well as a pollution conduit, correlate with identified pollution in on and off-site receptor wells, and define pollution extent. Neither party has submitted the second required workplan.

AUTHORITY – LEGAL REQUIREMENTS

19. Water Code section 13304(a) provides that:

Any person ... who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board clean up the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including but not limited to, overseeing cleanup and abatement efforts. A cleanup and abatement order issued by the state board or a regional board may require the provision of, or payment for, uninterrupted replacement water service, which may include wellhead treatment, to each affected public water supplier or private well owner. Upon failure of any person to comply with the cleanup or abatement order, the Attorney General, at the request of the regional board, shall petition the superior court for that county for the issuance of an injunction requiring the person to comply with the order. In the suit, the court shall have jurisdiction to grant a prohibitory or mandatory injunction, either preliminary or permanent, as the facts may warrant.

20. Water Code section 13304(f) provides that:

Replacement water provided pursuant to subdivision (a) shall meet all applicable federal, state and local drinking water standards and shall have comparable quality to that pumped by the public water system or private well owner prior to the discharge of waste.

21. Water Code section 13267(b)(1) provides that:

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, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters 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.

22. Water Code section 13304(c)(1) provides that:

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

23. The State Water Resources Control Board ("State Water Board") has adopted Resolution No. 92-49, *Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under Water Code Section 13304* ("Resolution 92-49"). Resolution 92-49 sets forth the policies and procedures to be used during an investigation and cleanup of a polluted site, and requires that cleanup levels be consistent with State Water Board Resolution No. 68-16, the *Statement of Policy With Respect to Maintaining High Quality of Waters in California*. ("Resolution 68-16") Resolution 92-49 and the Basin Plan establish the cleanup levels to be achieved. Resolution 92-49 requires the waste to be cleaned up in a manner that promotes attainment of either background water quality, or the best water quality which is reasonable if background levels of water quality cannot be restored. Any alternative cleanup level to background must: (1) be consistent with the maximum benefit to the people of the state; (2) not unreasonably affect present and anticipated beneficial use of such water; 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 Water Board. Resolution 92-49 directs that investigation proceed in a progressive sequence. To the extent practical, it directs the Central Valley Water Board to require and review for adequacy written work plans for each element and phase, and the written reports that describe the results of each phase of the investigation and cleanup.
24. The Central Valley Water Board's *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, 4th Edition* (hereafter "Basin Plan") designates beneficial uses of the waters of the State, establishes water quality objectives (WQOs) to protect these uses, and establishes implementation policies to implement WQOs. The designated beneficial uses of the groundwater beneath the Site are domestic, municipal, industrial, and agricultural supply.
25. Chapter IV of the Basin Plan contains the *Policy for Investigation and Cleanup of Contaminated Sites*, which sets forth the Central Valley Water Board's policy for managing contaminated sites. The policy strategy generally outlines a process that includes site investigation, source removal or containment, information required to be submitted for consideration in establishing cleanup levels, and the bases for establishment of soil and groundwater cleanup levels.
26. The State Water Board adopted the *Water Quality Enforcement Policy*, which states in part:
- At a minimum, cleanup levels must be sufficiently stringent to fully support beneficial uses, unless the RWQCB allows a containment zone. In the interim, and if restoration of background water quality cannot be achieved, the CAO should require the discharger(s) to abate the effects of the discharge. Abatement activities may include the provision of alternate water supplies.
- (Enforcement Policy, p. 19.)
27. The wastes detected at the Site are not naturally occurring, and some are known human carcinogens. These wastes impair or threaten to impair the beneficial uses of the groundwater.

28. The Basin Plan contains a narrative WQO for chemical constituents which requires, in part, that groundwater not contain chemical constituents in concentrations that adversely affect any beneficial use. For groundwaters that are designated MUN, such as the groundwater beneath the Site, the Basin Plan incorporates by reference drinking water maximum contaminant levels ("MCLs") promulgated in the California Code of Regulations, title 22, chapter 15 ("Title 22"). Furthermore, Basin Plan also contains narrative WQOs that apply to groundwater for tastes and odors and for toxicity. The taste and odor WQO requires, in part, that, groundwater not contain substances in concentrations that cause nuisance, adversely affect beneficial uses, or impart undesirable tastes and odors to municipal and domestic water supplies. The toxicity WQO requires, in part, that groundwater be maintained free of toxic substances in concentrations that produce detrimental physiological responses in humans.

29. Chapter IV of the Basin Plan contains the *Policy for Application of Water Quality Objectives*, which provides that "[w]here compliance with narrative objectives is required (i.e., where the objectives are applicable to protect specified beneficial uses), the Central Valley Water Board will, on a case-by-case basis, adopt numerical limitations in orders which will implement the narrative objectives." Testing of petroleum hydrocarbons has identified a number of constituents that are not present in groundwater unaffected by the discharge and that could exceed a narrative WQO. All of these are constituents of concern. The numerical limits for the constituents of concern listed in the following table implement the Basin Plan WQOs.

Constituent	Limits (µg/L)	WQO	Reference
Benzene	0.15	Toxicity	California Public Health Goal (OEHHA)
Toluene	42	Taste and Odor	Federal Register, Vol. 54, No. 97
Ethylbenzene	29	Taste and Odor	Federal Register, Vol. 54, No. 97
Total Xylenes	17	Taste and Odor	Federal Register, Vol. 54, No. 97
Ethylene dichloride	0.4	Toxicity	California Public Health Goal (OEHHA)
	0.5	Chemical Constituents	California Primary MCL
Methyl t-butyl ether	5	Taste and Odor	California Secondary MCL (CDPH)
Tert-Butyl alcohol	12	Toxicity	California Drinking Water Notification Level (CDPH)
Naphthalene	2.9	Toxicity	California Proposition 65 Safe Harbor Drinking Water Level. (OEHHA)
Gasoline	5	Tastes and Odor	McKee & Wolf, Water Quality Criteria, SWRCB, p. 230
OEHHA - Office of Environmental Health Hazard Assessment			

30. The constituents listed in Findings No. 7, and 15 are wastes as defined in Water Code section 13050(d). The groundwater exceeds the WQOs for the constituents listed in Findings Nos. 8 and 11. Exceeding applicable WQOs is indicative of impairment to the beneficial uses of the groundwater, and thereby constitutes pollution as defined in Water Code section 13050(l)(1).

31. The constituents listed in Finding No. 30 are present in groundwater due to the wastes from discharge, are injurious to health or impart objectionable taste and odor when present in drinking water.
32. The Board circulated this document for comment on 23 September and 14 November 2011. Both TBS and Davis responded to each draft by the applicable deadline. The Board has considered all comments received and made revisions based on those comments.

DISCHARGER LIABILITY

33. 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. As described in Findings Nos. 4 and 5, TBS is the current owner of the property, and is subject to the directives contained herein. As described in Finding No. 6, the Board is exercising its discretion, in light of the court decisions, not to name Davis to this Order. A condition of pollution or nuisance is present at the Site. The condition of pollution is a priority violation and issuance or adoption of a cleanup and abatement order pursuant to Water Code section 13304 and Health and Safety Code section 25296.10 is appropriate and consistent with policies of the Central Valley Water Board.

34. This Order requires investigation and cleanup of the Site in compliance with the Water Code, the applicable Basin Plan, State Water Board Resolution No. 92-49, and other applicable Central Valley Water Board's plans, policies, and regulations.
35. As described in Findings Nos. 21 and 22, the TBS may be ordered to submit technical and monitoring reports pursuant to Water Code section 13267 because existing data and information about the Site indicate that waste has been discharged, is discharging, or is suspected of discharging, at the property, which is or was owned and/or operated by the Discharger named in this Order. The technical reports required by this Order are necessary to assure compliance with Water Code section 13304 and Health and Safety Code section 25296.10, to adequately investigate and clean up the Site to protect the beneficial uses of waters of the state, to protect against nuisance, and to protect human health and the environment.
36. The issuance of this Order is an enforcement action taken by a regulatory agency and is exempt from the provisions of the California Environmental Quality Act ("CEQA") (Pub. Resources Code § 21000 et seq.), in accordance with California Code of Regulations, title 14, section 15321(a)(2). The issuance of this Order is also an

action to assure the restoration of the environment and is exempt from the provisions of CEQA in accordance with California Code of Regulations, title 14, sections 15308 and 15330.

REQUIRED ACTIONS

IT IS HEREBY ORDERED that, pursuant to Water Code sections 13267 and 13304, as well as Health and Safety Code section 25296.10, TBS Petroleum, LLC shall abate the effects of waste discharges at, near, or down gradient of the Site as directed below.

1. Investigate the discharges of waste, clean up the waste, and abate the effects of the waste, forthwith, resulting from activities at Antler's Shell/Subway, 20884 Antlers Road, Lakehead, Shasta County, in conformance with State Water Board Resolution No. 92-49 *Policies and Procedures for Investigation and Cleanup and Abatement of Discharges Under Water Code Section 13304* and with the Central Valley Region's *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins* (in particular the Policies and Plans listed within the Control Action Considerations portion of Chapter IV). "Forthwith" means as soon as is reasonably possible. Compliance with this requirement shall include, but not be limited to, completing the tasks listed below.
2. Complete all work and reports in accordance with *Appendix A - Reports, Tri-Regional Recommendations for Preliminary Investigation and Evaluation of Underground Storage Tank Sites*, which can be found at:
http://www.waterboards.ca.gov/centralvalley/water_issues/underground_storage_tanks/
3. Complete all work under all permits required by State, County, and/or Local agencies.
4. TBS is required to submit the following technical reports prepared in accordance with Appendix A - Reports by the listed dates:

Required Report/Task	Due Date
Additional Site Investigation Work Plan including On-site Domestic Well Investigation and Evaluation	1 March 2012
Implement Site Investigation Work Plan	1 June 2012
Additional Site Investigation Report	1 September 2012
Corrective Action Plan (Final)	1 March 2013
- Problem Assessment Report	1 September 2013
- Feasibility Study	1 December 2013
- Final Remediation Plan	1 March 2014
Quarterly Status Reports - Reports due the 1 st day of the second month following the end of the quarter	30 January 2012 - first report due

5. TBS shall submit **Remedial Status Reports**, monthly for the first three months of active implementation and quarterly thereafter. The required Remedial Status Reports are necessary to monitor the effectiveness of the remedial system and its impact on the

subsurface environment. The first monthly Remedial Status Report is due 45 days after system startup, and shall at minimum include background dissolved metals, pH, oxidation-reduction potential (ORP), total dissolved solids (TDS), electron acceptors, iron, manganese, metabolic acids, relevant hydraulic parameters, organic pollutants and their predicted breakdown products in the target volume, predicted behavior both in the target volume and identified surrounding sentry wells, and contingencies for controlling mobilized pollution beyond the target volume. Subsequently, each Remedial Status Report shall also include amendment injections, and the results of all appropriate shallow soil vapor and groundwater sampling. Remedial Status Reports are to be submitted during operation of the remedial system and for a minimum of four quarters following system shutdown.

6. TBS shall submit **Quarterly Monitoring Reports**. All Monitoring Reports shall be submitted **by the 30th day of the month following the end of the calendar quarter** in which the samples are collected (i.e., by 30 July and 30 January). Monitoring reports shall include the results of all soil, soil vapor and groundwater samples analyzed to date. Remedial Status Reports and Monitoring Reports should be combined and completed as a single report when both monitoring and remedial system sampling occur during the same quarter.
7. TBS shall continue to provide appropriate, **uninterrupted** replacement water that meets all applicable federal, state, and local drinking water standards to affected parties, in compliance with Water Code section 13304(f and g). Appropriate uninterrupted replacement water may include, but is not limited to, continued maintenance of existing GAC units, and extension of piped potable water services.

GENERAL REQUIREMENTS

1. As required by the California Business and Professions Code sections 6735, 7835, and 7835.1, have appropriate reports prepared by, or under the supervision of, a registered professional engineer or geologist and signed by the registered professional. All technical reports submitted by the Discharger shall include a cover letter signed by the Discharger, or an authorized representative, certifying under penalty of law that the signer has examined and is familiar with the report and that to their knowledge, the report is true, complete, and accurate. The Discharger shall also state if it agrees with any recommendations/proposals and whether it approved implementation of said proposals.
2. Upon startup of any remediation system(s), TBS shall operate the remediation system(s) continuously, except for periodic and required maintenance or unpreventable equipment failure. TBS shall notify the Board within 24 hours of any unscheduled shutdown of the remediation system(s) that lasts longer than 48 hours. This notification shall include the cause of the shutdown and the corrective action taken (or proposed to be taken) to restart the system. Any interruptions in the operation of the remediation system(s), other than for maintenance, emergencies, or equipment failure, without prior approval from Central Valley Water Board staff or

without notifying the Board within the specified time is a violation of this Order. Within 7 working days of a shutdown, the Discharger shall submit a Technical Report containing, at a minimum, but not limited to, the following information:

- times and dates equipment were not working,
 - cause of shutdown,
 - if not already restarted, a time schedule for restarting the equipment, and,
 - a Cleanup Assurance Plan to ensure that similar shutdowns do not reoccur. Proposed Cleanup Assurance Plans are to be completed within 30 days of the system shutdown.
3. TBS shall notify Board staff at least three working days prior to any onsite work, testing, or sampling that pertains to environmental remediation and investigation and is not routine monitoring, maintenance, or inspection.
 4. TBS shall obtain all local and state permits and access agreements necessary to fulfill the requirements of this Order prior to beginning the work.
 5. Continue any remediation or monitoring activities until such time as the Executive Officer determines that sufficient cleanup has been accomplished to fully comply with this Order and this Order has been either amended or rescinded in writing.
 6. TBS shall optimize remedial systems as needed to improve system efficiency, operating time, and/or waste removal rates, and report on the effectiveness of the optimization in the quarterly reports.
 7. TBS shall maintain a sufficient number of monitoring wells to completely define and encompass the waste plume(s). If groundwater monitoring indicates the waste in groundwater has migrated beyond laterally or vertically defined limits during the quarter, then the quarterly monitoring reports must include a work plan and schedule, with work to begin within thirty days of Regional Water Board staff approval, to define the new plume limits.
 8. TBS shall submit all written reports and analytical results to the Board and electronic copies of all reports and analytical results over the Internet to the State Water Board Geographic Environmental Information Management System database (GeoTracker) at <http://geotracker.swrcb.ca.gov>. Electronic submittals shall comply with GeoTracker standards and procedures as specified on the State Board's web site.
 9. All work and directives referenced in this Order are required regardless of whether or not the UST Cleanup Fund approves the work for reimbursement.

If, for any reason, the Discharger is unable to perform any activity or submit any document in compliance with the schedule set forth herein, or in compliance with any work schedule submitted pursuant to this Order and approved by the Executive Officer, the Discharger may

request, in writing, an extension of the time specified. The extension request shall include justification for the delay. Any extension request shall be submitted as soon as the situation is recognized and no later than the compliance date. An extension may be granted by revision of this Order or by a letter from the Executive Officer. Extension requests not approved in writing by the Executive Officer with reference to this Order are denied.

If, in the opinion of the Executive Officer, the Discharger fails to comply with the provisions of this Order, the Executive Officer may refer this matter to the Attorney General for judicial enforcement or may issue a complaint for administrative civil liability. Failure to comply with this Order may result in the assessment of an Administrative Civil Liability of up to \$10,000 per violation per day pursuant to the Water Code sections 13268, 13350 and/or 13385. The Central Valley Water Board reserves its right to take any enforcement actions authorized by law.

Any person aggrieved by this action of the Central Valley Water Board may petition the State Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State 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.

This Order is effective upon the date of signature.



PAMELA C. CREEDON, Executive Officer

12-6-2011

DATE

EXHIBIT C

Central Valley Regional Water Quality Control Board

Statement of Rationale

The Executive Officer of the Central Valley Water Board, exercising authority delegated to her by the Board, issued Cleanup and Abatement Order R5-2011-0713 (the "CAO") to TBS Petroleum, LLC ("TBS") to address groundwater contamination at Antler's Shell Station in Lakehead, Shasta County (the "Site"). In issuing the CAO, the Executive Officer chose to exercise her discretion to refrain from naming one of the responsible parties. The Cleanup Team, headed by the Executive Officer, contends that this was an appropriate exercise of discretion and asks the Board to refrain from altering the CAO.

Background

The CAO requires investigation and cleanup of the Site, at which releases from and underground storage tank (UST) impacted groundwater. The main dispute is between TBS, the current property owner, and Mr. Bob Davis, the individual that sold the property to TBS. Mr. Davis has not disputed that spills occurred during his ownership of the Site, but argues that, based on the judicial resolution of liability claims between TBS and himself, the Board should look to TBS alone to complete the cleanup at the Site.

Mr. Davis' Liability under a CAO

As documented in the Board's casefile, releases from a UST system occurred under Mr. Davis' ownership of the Site. This gives the Board the authority to issue a Cleanup and Abatement Order to Mr. Davis under the authority of Water Code section 13304, which states that:

Any person ... who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board clean up the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including but not limited to, overseeing cleanup and abatement efforts.

Mr. Davis, as the owner of the property where an unauthorized release occurred, is liable to the Board for the cleanup of the site. However, as explained below, there are valid reasons not to name Mr. Davis in the CAO.

TBS's Liability under a CAO

Under precedential Orders issued by the State Water Board (see *Zoecon Corporation*, Order 86-2 (SWRCB 1986).) and under regulations promulgated to implement Water Code section 13304 (see definition of Responsible Party: Cal. Code Regs., tit. 23, §2720.), TBS is also liable to the Board for the cleanup of wastes at the Site. The State Water Board has opined that, under the principles of nuisance law and under an interpretation of Water Code section 13304 that subsequent property owners are liable for discharges that occurred under prior ownership.

Did the Court Case Discharge Davis' Liability vis-à-vis the Board?

After the Board had initiated actions to require the investigation and cleanup of the Site, TBS sued Mr. Davis in Shasta County Superior Court in order to settle a dispute involving the terms under which TBS took title to the Site. To summarize, Mr. Davis responded to TBS's lawsuit by contending that the "as is" clause in the purchase contract conveyed the responsibility to remediate all known and existing environmental obligations to the TBS (TBS was aware of potential environmental liability at the time it acquired the Site). TBS argued that an indemnification "hold harmless" clause superseded the "as is" clause in the contract, and that the "as is" clause was not sufficient to transfer all environmental obligations to TBS. On 24 July 2009 the Shasta County Superior Court issued a ruling in favor of Mr. Davis, and dismissed the TBS lawsuit with prejudice. On 23 November 2010, the Third Appellate Court District affirmed the Superior Court's ruling, and found:

[t]here are no allegations in the complaint that [TBS was] not aware of the contamination or that [Mr. Davis] failed to disclose or misrepresented any facts regarding the existence of contamination on the property. The 'as is' clause functions to transfer certain liabilities to the new owner. The claims raised in the present complaint are precisely the type of liabilities that were sold along with the property.

Reading this language, it is reasonable to conclude that, in the opinion of the Courts, TBS acquired responsibility for remediating the Site by virtue of the "as is" clause in the purchase contract. However, the Court decision only resolved the liability issues between TBS and Davis. The court decision did not resolve Davis' liability to the Board. This is an important distinction, as there is a decidedly different relationship between co-responsible parties versus the relationship between responsible parties and regulatory agencies. At no point did the Cleanup Team contend that the court decision impacted the Board's ability to name Davis in the CAO. Instead, the Cleanup Team's decision not to name Davis was made for the policy reasons explained below.

Is "Secondary Liability" Appropriate?

Both TBS and Davis have submitted comments asking that they be named "secondarily liable" in any cleanup and abatement order issued by the Board. The term "secondarily liable" finds its origin in State Water Board precedential orders, and is not actually found in the Water Code itself. In practice, a party that is named secondarily liable will only be required to assume obligations in a Cleanup and Abatement Order if the primarily responsible party fails to meet the deadlines. The Board often includes "secondary" deadlines or "cure periods" in the cleanup and abatement orders that find parties secondarily liable, and don't hold the secondarily liable party responsible for meeting the initial deadlines in the Orders.

Though there are many nuances to the assignment of secondarily liability, the State Water Board orders that discuss secondary liability have one thing in common: they require that the Regional Boards, before finding *any* party secondarily liable, make a finding that the cleanup is proceeding well. (*Wenwest, Inc.*, *Susan Rose*, *Wendy's International, Inc.* and *Phillips Petroleum Company*, Order WQ 92-13 (SWRCB 1992).; *Prudential Ins. Co. of Am.*, Order WQ 87-6 (SWRCB 1987).) This requirement effectuates the implied reason why the State Water Board created the secondarily liability in the first place; the State Water Board did not want responsible parties to waste resources duplicating efforts. If one responsible party is undertaking cleanup efforts, then theoretically the other parties would need to duplicate these efforts if they want complete assurances that they would not acquire liability under Water Code section 13350 if the party undertaking the cleanup efforts suddenly halted work, and missed deadlines.

Because the cleanup at the Site is not proceeding well, it is inappropriate for the Board to name either TBS or Davis secondarily liable.

Why Name TBS Alone?

Although both TBS and Davis have liability under Board-issued orders for the cleanup of wastes discharged at the Site, the Cleanup Team contends that there is good reason to simply name TBS in the CAO. For starters, State Water Board Resolution No. 92-49, *Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under Water Code Section 13304* ("92-49") implied gives the Board broad discretion in naming parties in Cleanup and Abatement Orders, stating:

The Regional Board shall...

B. Make a reasonable effort to identify the dischargers associated with the discharge. It is not necessary to identify all dischargers for the Regional Water Board to proceed with the requirements for a discharger to investigate and clean up;

C. Require one or more persons identified as a discharger associated with a discharge or threatened discharge subject to Water Code section 13304 to undertake and investigation, based on the findings of [the previous sections].

The Cleanup Team interprets this provision to accommodate the Board's broad prosecution authority, and contents that this authority that should be wielded in such a manner as to actually get the cleanup done in a reasonable amount of time. Given that the Board has the discretion to refrain from naming identified responsible parties, the following are the policy justifications for not naming Mr. Davis in the CAO:

1. TBS is the Responsible Party Best Positioned to Implement the Cleanup

TBS is the current owner of the Site, and there are no known access issues that impede TBS from implementing cleanup options at the Site. As the property owner, TBS will also benefit the most from the increased property value that inheres to a fully-remediated property.

2. The Superior Court Decision, and the Appellate Court's Affirmation, Conclude that TBS is Ultimately Responsible for Paying for the Cleanup

The Board ordinarily does not get involved in contractual disputes between responsible parties. However, in this instance, the Board has been provided with court decisions that ultimately conclude that TBS bears the ultimate responsibility for the environmental obligations that persist at the Site. If the Board looked to Davis to fulfill obligations imposed in a Cleanup and Abatement Order, Davis would need to negotiate an access agreement with TBS, and presumably could seek reimbursement from TBS for the expenditures that were incurred to comply with the CAO. Instead of going through this process, it is reasonable for the Board to look directly to the party that the Courts believe bear the responsibility for the cleanup, which is TBS.

3. It is Unlikely that the UST Fund Will allow TBS to Access Funds

One of the main reasons that TBS wants to include Davis in the CAO is that TBS believes that it will be able to access UST Funds if Davis is named in the Order. However, compliance with Board-issued directives and Orders is generally a prerequisite to the award of a letter of commitment from the UST Fund. Both TBS and Davis have failed to undertake voluntary measures to remediate the contamination that exists at the Site, and have not complied with Board directives relating to the investigation and remediation of the Site.

Though the State Water Board has concluded that it is not improper for a responsible party to assign its grant to another responsible party, this should not form the basis for naming Mr. Davis in the CAO, as that determination is entirely speculative, and, in the opinion of the Cleanup Team, unlikely. In addition, even if Mr. Davis are both named in the CAO, this does not mean that the UST Fund will automatically award funds to Davis. Furthermore, the Cleanup Team believes that nothing in the UST Fund regulations precludes Mr. Davis from transferring a UST Fund commitment (if he is eligible and does receive a commitment from the Fund) to TBS, *even if he is not named in the CAO.*

4. The Board Still Retains the Ability to Name Mr. Davis in Future Orders. Should TBS Fail to Effectuate the Cleanup of the Site

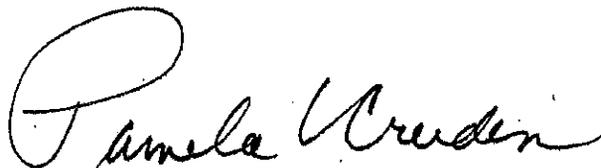
As mentioned above, the court decisions did not resolve Davis' liability to the Board. Should TBS fail to remediate the Site, or should TBS cease to be a viable entity, the Board's recourse could be to pursue Davis in a future Cleanup and Abatement Order. In fact, Mr. Davis' counsel suggested as much, stating that, "If as counsel suggests, Mr. Davis is a responsible party under [Water Code] section 13304, the Board can revisit the issue should TBS cease to exist and have no financial ability to perform the task required under the draft CAO" (Comment Letter Submitted by Mr. Harlow, 11 October 2011.)

The above reasons provide sufficient rationale to overcome TBS's argument that the Cleanup Team's decision not to name Davis is "arbitrary, capricious, and abuse of discretion." (Comment Letter Submitted by Mr. Bloom, 21 November 2011.)

Conclusion: Solely Naming TBS is appropriate

In summary, the Board's Cleanup Team is not looking to intervene in the disputes that have been transpiring between the two identified responsible parties. Instead, the Cleanup Team is merely trying to effectuate a cleanup of the groundwater at the Site. The Executive Officer reasonably concluded that the circumstances surrounding this case allow her to exercise her prosecutorial discretion, and to refrain from naming Davis in the Order.

I hereby affirm that the above statements reflect the considerations that informed my decision to refrain from naming Mr. Bob Davis in Cleanup and Abatement Order R5-2011-0713.



PAMELA C. CREEDON, Executive Officer

April 24, 2012

24 April 2012

EXHIBIT D



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

April 20, 2012

TBS Petroleum, LLC
Tony Ackernecht
215 Lake Blvd, Pmb 405
Redding, CA 96003

UNDERGROUND STORAGE TANK CLEANUP FUND (FUND), STAFF DECISION TO REJECT CLAIM: CLAIM NUMBER 019888; FOR SITE ADDRESS: 20884 ANTLERS RD, LAKEHEAD

On February 22, 2012, the Fund issued a Final Staff Decision rejecting your claim. That letter was issued in error. Therefore, this Staff Decision supersedes the Final Staff Decision issued February 22, 2012.

After reviewing your claim application and supporting documents submitted to the Fund, we find that your claim is ineligible for placement on the Priority List because the required documentation and/or information necessary to make an eligibility determination was not submitted (Section 2811 of the *Petroleum Underground Storage Tank Cleanup Fund Regulations*).

Upon review of the submitted application you seem to have never been the owner, de facto owner or operator of the underground storage tanks (USTs) that are the subject of this claim. According to your claim application, you purchased the subject site in April 2005, and the USTs that are the subject of this claim were removed on October 9, 1997.

Eligible claimants must:

1. Have either owned or operated the subject leaking UST, and
2. Be the responsible party directed by the local regulator to undertake corrective action for the unauthorized release, and
3. Be the party incurring and paying for the costs of cleanup.

CHARLES R. HOPPIN, CHAIRMAN | THOMAS HOWARD, EXECUTIVE DIRECTOR

1001 I Street, Sacramento, CA 95814 | Mailing Address: P.O. Box 100, Sacramento, CA 95812-0100 | www.waterboards.ca.gov

If you disagree with this finding, further documentation is needed to determine eligibility for the Cleanup Fund. If the documentation and information requested below is not submitted within sixty (60) calendar days from the date of this letter, the Staff Decision will then become final and conclusive.

Per our discussion today, there are 2 possible scenarios in which this claim could be amended to allow for an eligibility review. Both scenarios are discussed below, and we have identified the information necessary to continue with the review for each scenario.

Scenario 1: This scenario is to be considered if the current tanks caused the contamination. These tanks were installed in 1997 and are still on the property. TBS owns these tanks and is eligible to file a claim against the Fund..

1. The following must be submitted to determine your eligibility for placement on the Priority List: On page 1 of the claim application, you indicated Antler's Shell as your "Doing Business As (DBA)", please provide a copy of the Fictitious Business Name Statement.
2. The Health and Safety Code section 25299.52(b) mandates that the lowest priority class appropriate for any claimant at the time of discovery of the unauthorized release and at the time of application sets the priority class. In this case, you have indicated that your claim is a Priority "C" classification.. Please complete and submit page 15 as it was not included in the packet. Furthermore, claimants requesting Priority Class "C" must not employ more than 500 full time or part time employees. Please submit documentation supporting the number of people you have employed [i.e. Employment Development Department (DE-6)] for the four quarters prior to the submittal of your claim application
3. Please amend and resubmit pages 4, 5, 13, 15, and 17. These pages need to reflect only the claimant's details and information.
4. Claimants are required to have current financial responsibility documents on file with the local regulatory agency. Enclosed is the financial responsibility information for your review. Please submit the original documents to the local regulatory agency and forward a copy to the Fund. Any questions regarding financial responsibility should be directed to Ginny Lagomarsino at (916) 341-5722.
5. You indicated on page 19 of the claim application that legal action has commenced. Please provide the court judgment.
6. All claimants, including any joint claimants, must sign and date the claim application. If you are signing on behalf of a corporation, Limited Liability Company, partnership, trust, or estate, identify your title as it relates to the

claimant and submit documentation proving you have the authority to sign on behalf of the claimant. Please submit an "original signed" Verification and Signature Page.

7. Claimant must provide the following for the purchase of the site:
 1. Purchase Offer
 2. Purchase Agreement (Executed)
 3. Appraisal Report
 4. Escrow Instructions
8. During the review of your claim, the Fund learned that your site was previously owned or a UST or residential tank at your site was previously owned or operated by another person. Claimants must read, complete and sign the enclosed "Certification of Compliance with Health & Safety Code, Section 25299.54, subdivision (h)."
9. Authorization from the Local Agency that the subject tanks (current tanks) are tanks that caused the release.

Scenario 2: This scenario is to be considered if the tanks that were removed in 1997 caused the unauthorized release. You have also indicated that you are negotiating a possible Assignment Agreement with Mr. Bob Davis. .

The following must be submitted to determine Mr. Davis' eligibility for placement on the Priority List:

1. A new claim application completed and signed by Mr. Bob Davis.
2. Claimants are required to have current financial responsibility documents on file with the local regulatory agency. Enclosed is the financial responsibility information for your review. Please submit the original documents to the local regulatory agency and forward a copy to the Fund. Any questions regarding financial responsibility should be directed to Ginny Lagomarsino at (916) 324-6581. Please note that a Balance Sheet is not an approved mechanism to show financial responsibility. However, you may use a letter from Chief Financial Officer (see enclosed).
3. Claimants are required to provide documentation that all UST storage fees (for the tanks that are the subject of this claim) due on or after January 1, 1991, imposed by Section 25299.41 of the Health and Safety Code have been paid. If any of the USTs stored fuel oil on or after January 1, 1991, please submit confirmation that all storage fees have been paid to the State Board of Equalization (BOE) for the time period that you owned the tanks. Attach copies of the UST Fee Return Forms filed with the BOE with proof of payment (copy of

canceled checks) for all applicable time periods or provide a copy of the BOE letter documenting that all fees have been paid for the specific time period at this site. For more information regarding this storage fee, visit the BOE's website at www.boe.ca.gov or call 1-800-400-7115. When contacting BOE, please provide name, site address, parcel number (APN), county, tank number, and the dates that you paid storage fees for the subject tanks (BOE request form is provided for your convenience).

4. Priority Class "B" is for small businesses that are independently owned and operated, not dominant in their field of operation, employ 100 or fewer employees (including all affiliates), and have average annual gross receipts of \$14 million or less (including all affiliates) over the three years prior to the date of the claim application.

If you believe you qualify for Priority Class "B", please submit the following documents for review:

- Complete the enclosed forms: "Request for Assignment of Claim to Priority Class B" and "Worksheet for Priority Class B Claimants."

AND

- Complete federal tax returns for the claimant and for each affiliate for three calendar years prior to the date of claim application submittal. As proof of gross revenues for the purposes of assignment to Priority Class B, the enclosed chart identifies the federal tax returns, the statement, and schedules that are required to be submitted.

AND

- Documentation supporting the number of employees for the claimant, the claimant's business, and any affiliates [ie., Employment Development Department (DE-6) payroll reports] for the four quarters prior to the date of claim application submittal. Claimants must employ 100 or fewer full and part-time employees. Claimants who do not have any employees must submit a letter stating that they and their affiliates do not have any employees. This letter must be signed by the claimant under penalty of perjury and must have the claimant's original ink signature.

The Fund will review these documents to determine eligibility for Priority Class B. A letter will be mailed to you upon final determination.

5. A copy of the first permit Bob Davis obtained to own or operate the USTs issued by the local regulatory agency (air pollution or Air Quality Management District permits are not acceptable).
6. A copy of the operating permit prior to removal and the removal permit.
7. A copy of the Tank Removal Report for tanks listed in claim application.
8. Verification from the Local Agency that the tanks removed in 1997 caused the unauthorized release.

If you have any questions, please contact me at (916) 341-5771.

Sincerely,

Bridget Freeborn
Claims Review Unit
Underground Storage Tank Cleanup Fund

Encl.

1 PROOF OF SERVICE

2 I am employed in the County of Contra Costa, State of California. I am over the age of
3 18 am not a party to the within action. My business address is 3685 Mt. Diablo Boulevard,
4 Suite 331, Lafayette, California 94549.

5 On May 10, 2012, I served the following document described as:

6 *DECLARATION OF ERIC HOLM*

7 on all interested parties in this action by placing a true copy thereof enclosed in sealed
8 envelopes addressed as stated on the attached service list.

9 **BY MAIL** – I deposited such envelope in the mail at Lafayette, California. The
10 envelope was mailed with postage thereon fully prepaid. I am “readily familiar” with the firm’s
11 practice of collection and processing correspondence for mailing. Under the practice it would
be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at
Lafayette, California in the ordinary course of business.

12 **BY PERSONAL SERVICE** – I caused said document to be hand delivered to the
13 offices of the addressee(s) shown on the attached service list.

14 **VIA FACSIMILE** – I faxed said document, to the office(s) of the addressee(s) on the
15 attached service list, and the transmission was reported as complete and without error.

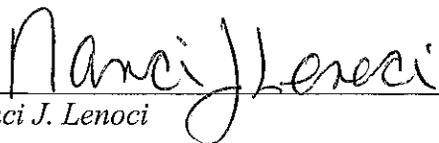
16 **BY ELECTRONIC TRANSMISSION** – I transmitted a PDF version of this document
17 by electronic mail to the party(s) identified on the attached service list using the e-mail
address(es) indicated.

18 **BY OVERNIGHT DELIVERY** - I deposited such envelope for collection and
19 delivery by Federal Express with delivery fees paid or provided for in accordance with ordinary
20 business practices. I am “readily familiar” with the firm’s practice of collection and processing
21 packages for overnight delivery by Federal Express. They are deposited with a facility
regularly maintained by Federal Express for receipt on the same day in the ordinary course of
business.

22 (State) I declare under penalty of perjury under the laws of the State of
California that the above is true and correct.

23 (Federal) I declare that I am employed in the office of a member of the bar of this
24 Court at whose direction the service was made.

25 Executed on May 10, 2012, at Lafayette, California.

26 
27 Nanci J. Lenoci

SERVICE LIST

DESIGNATED PARTY: BOB DAVIS	DESIGNATED PARTY: CLEANUP TEAM
Mr. Bob Davis c/o Loren J. Harlow, Esq. Stoel Rives, LLP 500 Capitol Mall, Suite 1600 Sacramento, CA 95814 Phone: 916-447-0700 Fax: 559-227-3600 Email: ljharlow@stoel.com	Mr. Grant Stein Engineering Geologist Central Valley Water Board 415 Knollcrest Drive Redding, CA 96002 Phone: 530-224-4788 Fax: 530-224-4857 Email: erapport@waterboards.ca.gov
	Ms. Pamela Creedon Executive Officer Central Valley Region, RWQCB 11020 Sun Center Drive, #200 Rancho Cordova , CA 95670-6114 Phone: 916-464-4615 Fax: 916-464-4645 Email: pcreedon@waterboards.ca.gov
	Mr. Robert Crandall Assistant Executive Officer Central Valley Water Board 520 Knollcrest Drive Redding, CA 96002 Phone: 530-224-4845 Fax: 530-224-4857 Email: rcrandall@waterboards.ca.gov
	Mr. Eric Rapport Senior Engineering Geologist Central Valley Water Board 415 Knollcrest Drive Redding, CA 96002 Phone: 530-224-4998 Fax: 530-224-4857 Email: erapport@waterboards.ca.gov

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27 Nanci J. Lenoci
28

SERVICE LIST

ADVISORY TEAM:	CLEANUP TEAM:
<p>Mr. Kenneth Landau, Assistant Executive Officer Central Valley Regional Water Quality Control Board 11020 Sun Center Drive, Suite 200 Rancho Cordova, CA 95670</p> <p>Phone: 916-464-4726 Fax: 916-464-4645 Email: klandau@waterboards.ca.gov</p>	<p>Mr. Clint Snyder, Senior Engineering Geologist Central Valley Regional Water Quality Control Board 415 Knollcrest Drive, Suite 100 Redding, Ca 96002</p> <p>Phone: 530-224-3213 Fax: 530-224-4857 Email: csnyder@waterboards.ca.gov</p>
<p>David P. Coupe, Esq., Senior Staff Counsel State Water Resources Control Board Office of Chief Counsel C/O San Francisco Bay Regional Water Quality Control Board 1515 Clay Street, Suite 1400 Oakland, CA 94612</p> <p>Phone: 510-622-2306 Fax: 510-622-2460 Email: dcoupe@waterboards.ca.gov</p>	<p>Patrick E. Pulupa, Esq., Staff Counsel State Water Resources Control Board Office of Chief Counsel P.O. Box 100 Sacramento, CA 95812</p> <p>Street address: 1001 I Street Sacramento, CA 95814</p> <p>Phone: 916-341-5189 Fax: 916-341-5199 Email: ppulupa@waterboards.ca.gov</p>