

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

**MEETING OF OCTOBER 14 AND 15, 2009
South Lake Tahoe**

ITEM: 1

SUBJECT: **CONSIDERATION OF AN ADMINISTRATIVE CIVIL LIABILITY (ACL) ORDER FOR MOHAMMAD AHMAD AND THE THOMAS E. ERICKSON TRUST FOR VIOLATIONS OF (1) CALIFORNIA WATER CODE SECTION 13267 AND (2) CALIFORNIA WATER CODE SECTION 13304 – TAHOE TOM’S GAS STATION, EL DORADO COUNTY**

CHRONOLOGY:

Dec. 24, 2007	Cleanup and Abatement Order No. R6T-2007-0038 issued
Apr. 14, 2008	ACL Complaint No. R6T-2008-0011 issued
June 4, 2009	ACL Complaint No. R6T-2009-0011 rescinded
July 28, 2009	ACL Complaint No. R6T-2009-0047 issued

ISSUES: Should the Water Board adopt the proposed ACL Order against Mohammad Ahmad and the Thomas E. Erickson Trust?

Does the proposed liability of \$248,400 sufficiently address the alleged violations?

DISCUSSION: On December 14, 2007, the Water Board Executive Officer issued Cleanup and Abatement Order No. R6T-2007-0038 (Order) to the Thomas E. Erickson Trust and Mr. Mohammad Ahmad in response to an unauthorized release of petroleum hydrocarbons from underground storage tanks at the Tahoe Tom’s Gas Station, 4029 Lake Tahoe Boulevard (APN 029-065-07) in South Lake Tahoe (“Property”). At the time of the release, the Thomas E. Erickson Trust was the owner of the Property and Mr. Mohammad Ahmad was the operator of the underground storage tanks at the Property. The Thomas E. Erickson Trust and Mr. Mohammad Ahmad, together, are hereinafter referred to as “Dischargers.”

Petroleum constituents from the release were detected above drinking water standards in groundwater beneath the Property and in off-site monitoring wells. Polluted groundwater threatened nearby domestic and municipal supply wells. The Order required

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the Dischargers to clean up and abate the effects of the release and conduct monitoring and reporting, pursuant to Water Code sections 13304 and 13267, respectively. The Dischargers failed to comply with all requirements in the Order by the mandated deadlines. All requirements were either conducted past their respective deadlines or not conducted at all.

On April 14, 2009, the Water Board's Assistant Executive Officer issued ACL Complaint No. R6T-2008-0011 (Complaint). The Complaint alleged eleven months of violations of the Order and proposed civil liability in the amount of \$246,700. The certified letter containing the Complaint for the Thomas E. Erickson Trust was signed and accepted. The certified letter addressed to Mr. Ahmad at the Property, however, was refused.

On June 4, 2009, the Water Board's Assistant Executive Officer rescinded Complaint R6T-2008-0011 because it could not be served upon Mr. Ahmad in time for the July 8-9, 2009 Water Board hearing.

On July 28, 2009, ACL Complaint R6T-2009-0047 was issued, re-alleging the violations described above, and proposing civil liability in the amount of \$248,400 (Enclosure 1). Because prior certified letters had been refused by Mr. Ahmad, ACL Complaint R6T-2009-0047 was delivered to him by a process server on July 31, 2009 (Enclosure 2). At the same time, the process server also delivered to Mr. Ahmad the Water Board Advisory Team's hearing procedures and Prosecution Team's written evidentiary materials. ACL Complaint R6T-2009-0047 was delivered to the Thomas E. Erickson Trust via certified mail.

At the public hearing, the Water Board will be asked to consider adopting the proposed Administrative Civil Liability Order (Enclosure 3) based upon Complaint R6T-2009-0047.

RECOMMENDATION:

Adoption of the Administrative Civil Liability Order as proposed.

ENCLOSURES:

1. Administrative Civil Liability Complaint R6T-2009-0047
2. July 31, 2009 Declaration of Service
3. Proposed Administrative Civil Liability Order

ENCLOSURE 1

01-0003



California Regional Water Quality Control Board
Lahontan Region



Linda S. Adams
 Secretary for
 Environmental Protection

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Arnold Schwarzenegger
 Governor

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION

In the Matter of Mohammad Ahmad and
 The Thomas E. Erickson Trust: Violation of
 Cleanup and Abatement Order (CAO)
 No. R6T-2007-0038, 4029 Lake Tahoe
 Boulevard, South Lake Tahoe, El Dorado County

) **COMPLAINT NO.**
) **R6T-2009-0047**
) **FOR ADMINISTRATIVE**
) **CIVIL LIABILITY**

**MOHAMMAD AHMAD AND THE THOMAS E. ERICKSON TRUST, YOU ARE
 HEREBY GIVEN NOTICE THAT:**

1. You are charged with violating provisions of law and regulations for which the California Regional Water Quality Control Board, Lahontan Region (Water Board) may impose administrative civil liability pursuant to Water Code section 13350, subdivision (a)(1) and Water Code section 13268, subdivision (a)(1).
2. Unless waived, a hearing on this matter will be held before the Water Board within 90 days following the issuance of this Complaint. Mohammad Ahmad and The Thomas E. Erickson Trust, or their representatives, will have an opportunity to address and contest the allegations in this Complaint and the imposition of civil liability by the Water Board.
3. At the hearing, the Water Board will consider whether to affirm, reject, or modify (either increase or decrease) the proposed civil liability, or whether to refer the matter to the Attorney General for assessment of judicial civil liability.

ALLEGATIONS

4. The Tahoe Tom's Gas Station ("Facility") is located at 4029 Lake Tahoe Boulevard in the City of South Lake Tahoe, El Dorado County, as shown in Attachment A of this Complaint.
5. The Thomas E. Erickson Trust was the property owner of the Facility, on record with El Dorado County in 2007, with Mr. Thomas E. Erickson listed as the agent for service of process. Mohammad Ahmad is the operator of the underground storage tanks at the Facility, according to El Dorado County Department of Environmental Management. Both Mohammad Ahmad and The Thomas E. Erickson Trust are identified in CAO No. R6T-2007-0038 as the parties responsible for complying with

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the Order. For the purposes of this Complaint, these two parties will be hereinafter referred to as the "Dischargers."

6. Thomas E. Erickson and other parties were the subject of CAO No. 6-98-42 issued in 1998 and amendments issued in 1999 and 2000 for petroleum releases at the Facility adversely affecting groundwater quality and threatening water wells in the area. Between 1999 and 2007, Thomas E. Erickson and the other parties had a sporadic record of compliance with CAO 6-98-42A1 and the amendments. Five Notices of Violation were issued to the responsible parties for failing to continuously operate the remediation system and/or conduct quarterly groundwater monitoring and reporting.
7. On October 11, 2002, El Dorado County Superior Court issued an Order of Stipulation against Thomas E. Erickson for failure to comply with directives in amended CAO No. 6-98-42A2. The Order required corrective action be immediately taken to come into compliance with directives in the amended CAO. Mr. Erickson implemented corrective actions and came into compliance with the amended CAO in November 2002.
8. In July 2006, Mr. Erickson and the other parties ceased all corrective actions at the site; lack of funds was identified as the reason for the work stoppage. The Attorney General's Office, acting on behalf of the Water Board, requested copies of financial documents to support the claim of lack of funds. No financial documents were ever submitted.
9. In December 2006, the Attorney General's Office filed a motion in El Dorado County Superior Court to find Mr. Erickson in contempt of the 2002 Stipulated Order. The motion was approved on January 12, 2007, and the court ordered Mr. Erickson to resume the operation of remediation systems at the site and groundwater monitoring activities. In February 2007, Mr. Erickson resumed operation of the remediation systems and conducted groundwater monitoring.
10. The First Quarter 2007 Groundwater Monitoring Report contains results of monitoring wells sampled at the site during February 2007. The report shows petroleum hydrocarbons concentrations, with the exception of MTBE, increasing in groundwater compared to previous sampling events. The highest levels of hydrocarbons were detected in a water sample from recovery well RW-10:

Benzene	2,600 µg/L
Toluene	10,000 µg/L
Ethylbenzene	1,200 µg/L
Xylenes	9,400 µg/L
Methyl tertiary butyl ether (MTBE)	230 µg/L

11. On June 11, 2007, the Water Board Executive Officer issued an order to Mr. Erickson and Mr. Ahmad to submit a technical report documenting an investigation

of potential discharges of gasoline to groundwater at the Facility. The order stated that monitoring data in the First Quarter 2007 Groundwater Sampling Results Report shows petroleum hydrocarbons concentrations increasing in groundwater beneath the site. Such information was consistent with a new release at the site. A technical report describing the investigation and results was due to the Water Board by July 11, 2007. When a technical report was not received by the deadline, the Water Board Executive Officer issued a Notice of Violation, dated July 25, 2007, to the same two parties.

12. On September 14, 2007, the Water Board received a document, prepared by CalClean on behalf of Mr. Ahmad, describing a tracer test investigation undertaken to determine the source of the additional petroleum discharge to groundwater. The report stated that three fill and turbine sumps and all four dispenser nozzles failed the tracer test. The results indicated that these areas were the source of releases at the site affecting water quality. The document stated that equipment failures would be corrected shortly.
13. Based on water sample results listed in Finding No. 10 and the tracer test results listed in Finding No. 12, a new unauthorized release of petroleum hydrocarbons is indicated at the Facility. The indication of a new release is supported by the increase in concentration of volatile organic compounds by two or more orders of magnitude compared to water samples from 2005. The lack of increase in MTBE concentrations in water samples suggests that the release occurred after the 2003 phase-out of MTBE in gasoline.
14. On December 14, 2007, the Water Board Executive Officer issued CAO No. R6T-2007-0038 to Mohammad Ahmad and The Thomas E. Erickson Trust for the unauthorized release of petroleum products to a drinking water aquifer (Attachment B). The CAO required the Dischargers to take the following cleanup actions: (1) report actions to stop the source of the release, (2) conduct groundwater monitoring and submit technical reports, (3) operate the on-site pump and treat system to contain plume migration, (4) investigate the extent of the discharge, and (5) propose clean up of contamination in soil and groundwater. Specifically, the CAO provided, in relevant part:

"4. Corrective Actions for the Release.

4.2 **By January 3, 2008**, submit a technical report to the Water Board describing corrective actions taken to stop the release at the Facility.

4.3 Continue to operate the existing remediation systems (pump and treat system and soil vapor extraction system) until an alternate remediation system is proposed and implemented or it is determined by the Water Board...that the operation of the remediation system is no longer necessary to address the problem.

5. Groundwater Monitoring and Reporting

- 5.1. Beginning April 15, 2008, and every three months thereafter, submit a technical report to the Water Board describing groundwater monitoring results for the prior quarter.

6. Contaminant Investigation

- 6.1. By February 1, 2008, submit a workplan to the Water Board that is designed to determine the lateral and vertical extent of petroleum hydrocarbons in soil and groundwater due to the release at the Facility.
- 6.2. By February 22, 2008, implement the site investigation workplan, as accepted by Water Board staff, for determining the extent of contamination in soil and groundwater. Notify the Water Board within one working day of implementing the investigation.
- 6.3. By April 10, 2008, submit a technical report to the Water Board that describes the soil and groundwater investigation conducted at the site in accordance with the workplan accepted by Board staff.

7. Corrective Action Plan (CAP)

- 7.1. By May 6, 2008, submit a CAP to the Water Board to abate impacts to soil and groundwater from discharges at the Facility."

15. On February 2, 2008, the Water Board received a letter from Mr. Erickson stating that the remediation systems at the site had ceased operating due to inclement weather. The letter further stated that there were no funds available to fix the remediation systems and continue their operations.
16. On February 26, 2008, the Water Board Executive Officer issued a Notice of Violation to the Dischargers for violation of the CAO (Attachment C). The Notice states that the Dischargers were in violation of two directives in the CAO. The Dischargers failed to comply with directive No. 4.2 and submit a technical report describing corrective actions taken to stop the release at the Facility. The Dischargers also failed to comply with directive No. 6.1 and submit a workplan for determining the extent of petroleum contamination in soil and groundwater. The Notice informed the Dischargers that continued violation of the CAO would result in enforcement actions against them.
17. On April 8, 2008, the Water Board Executive Officer issued a Notice of Non-Compliance to the Thomas E. Erickson Trust for violation of the CAO, amended CAO No. 6-98-42A2 and the 2002 Stipulated Order (Attachment D). The Notice states that the Dischargers were in violation of directive Nos. 4.2, 6.1, and 6.2 in

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the CAO for failure to comply with corrective actions listed in Finding No. 15 and to implement the investigation to determine the extent of contamination at the site. The Notice also informed The Thomas E. Erickson Trust that it was in violation of amended CAO 6-98-42A2 and the 2002 Stipulated Order since remediation systems ceased operating at the site in February 2008 and have not been turned back on. The Dischargers were warned that their non-compliance status would result in enforcement actions against them. A copy of the letter was sent to Mr. Ahmad.

18. On May 23, 2008, the Water Board received the First Quarter 2008 Groundwater Monitoring Report. The Report was submitted 38 days past the April 15, 2008 deadline listed in directive No. 5.2. The Report states that groundwater sampling was conducted on March 4, 2008 at seven of the eighteen monitoring locations listed in CAO No. R6T-2007-0038. Eleven locations, including RW-10, could not be sampled due to snowpiles. The Report states that the well location having the greatest detectable levels of petroleum hydrocarbons was vapor extraction well VE-13, next to the station building:

Benzene	522 µg/L
Toluene	2,920 µg/L
Ethylbenzene	1,060 µg/L
Xylenes	6,700 µg/L
MTBE	46 µg/L
Total Petroleum Hydrocarbons (gas)	25,400 µg/L

19. On May 23, 2008, the Water Board received a facsimile from Gallardo and Associates on behalf of Mr. Ahmad, containing information about corrective actions taken to stop the release at the Facility in October 2007. The document shows that Slunacker Construction repaired leaking nozzles, breakaway fittings, turbine risers, and vapor risers. The information was submitted to the Water Board 141 days past the January 3, 2008 deadline listed in directive No. 4.2 of CAO R6T-2007-0038.
20. On September 16, 2008, the Water Board received a workplan to investigate the extent of soil and groundwater contamination from the new release. The workplan, submitted by LRM Consulting on behalf of the Dischargers, was received 228 days past the February 1, 2008 deadline. Water Board staff issued a September 23, 2008 letter conditionally accepting tasks in the workplan.
21. On September 30, 2008, the Water Board received the document, "3rd Quarter 2008 Groundwater Monitoring Report." The Report, submitted by LRM Consulting, shows that up to 93 µg/L MTBE was present in an off-site monitoring well and up to 46,000 µg/L TPH-gas and 2,200 µg/L benzene are on-site near the tank basin. No groundwater monitoring report was received for second quarter 2008, due by July 15, 2008.

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22. On October 17, 2008, Water Board staff received notification from LMR Consulting that the remediation systems had been repaired and were operational beginning on October 16, 2008. This information was verified by Water Board staff during a site visit. The remediation systems had been down since February 2, 2008, for a total of 255 days. Lack of plume containment during this time resulted in the detection of TPH-gas at levels above the secondary drinking water standard of 50 µg/L in the domestic well at the Mark Twain Motel in September and December 2008. The domestic well is located at 947 Park Avenue, 600 feet in the downgradient flow direction from the Facility.
23. On November 24, 2008, the Water Board electronically received the document, "Soil and Groundwater Investigation Letter Report (Report)," dated November 22, 2008. The Report, by LRM Consulting, states that soil and groundwater samples were collected at the site beginning October 21, 2008. Sampling results show up to 395 µg/L MTBE, 45,400 µg/L TPH-gas, and 476 µg/L benzene were detected in grab water samples from near the tank basin. In addition, up to 7,020 milligrams per kilograms (mg/kg) TPH-gas were detected in soil, on the north side of the tank basin, at 21 feet below ground surface. Investigation results confirmed the petroleum release at the sump and dispenser islands. The Report was received 228 days past the April 10, 2008 deadline.
24. On December 19, 2008, the Water Board received the document, "4th Quarter 2008 Groundwater Monitoring Report." The Report, by LRM Consulting, contained groundwater monitoring results from samples collected in December 2008. The Report was submitted in compliance with CAO R6T-2007-0038.
25. On January 6, 2009, the Water Board electronically received the document, "Corrective Action Plan (Plan)," dated December 31, 2008. The Plan evaluates potential remedial alternatives and provides a preferred alternative. Based on monitoring and investigation results, the Plan recommends enhanced aerobic bioremediation using oxygen diffuser technology. The Report was received 245 days past the May 6, 2008 deadline. Water Board staff accepted the Plan recommendation in a letter dated February 26, 2009.
26. Violations – CAO No. R6T-2007-0038
As of November 30, 2008, the Dischargers have violated seven of nine CAO directives, as discussed in further detail below:

Directive No. 4.2. – Dischargers did not submit a technical report, as required, until May 23, 2008, **141 days** past the deadline of January 3, 2008. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13268.

Directive No 4.3. – Dischargers failed to continually operate the existing remediation systems until October 16, 2008, **257 days** after ceasing operations

on February 2, 2008. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13350.

Directive No. 5.2. – Dischargers failed to submit quarterly monitoring reports by their respective deadlines on two occasions. The First Quarter 2008 monitoring report was not received until May 23, 2008, **38 days** past the deadline of April 15, 2008. The Second Quarter 2008 monitoring report, due by July 15, 2008, was never received. The violation continued until the Third Quarter 2008 monitoring report was received on September 30, 2008. There were **77 days** of violation between July 15 and September 30, 2008. The total number of days of violation pursuant to Directive 5.2 is **115**. These violations subject the Dischargers to civil liability pursuant to Water Code section 13268.

Directive No. 6.1. – Dischargers failed to submit a workplan proposing a site investigation to define the extent of soil and groundwater contamination from the new release until September 16, 2008, **228 days** past the deadline of February 1, 2008. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13268.

Directive No. 6.2. – Dischargers failed to implement the site investigation workplan, as required pursuant to Directive 6.2, until October 21, 2008, **242 days** past the deadline of February 22, 2008. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13268.

Directive No. 6.3. – Dischargers failed to submit the site investigation technical report required pursuant to Directive 6.3 until November 24, 2008, **228 days** past the deadline of April 10, 2008. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13268.

Directive No. 7. – Dischargers failed to submit a CAP to abate impacts to soil and groundwater from discharges at the Facility until January 6, 2009, **245 days** past the deadline of May 6, 2008. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13268.

27. Administrative Civil Liability Authority – Water Code Section 13350

The Water Board may impose civil liability pursuant to Water Code section 13350, subdivision (a). Water Code section 13350, subdivision (a) states, in part:

"Any person who (1) violates any cease and desist order or cleanup and abatement order hereafter issued, reissued, or amended by a regional board or the state board, ... shall be liable civilly, and remedies may be proposed, in accordance with subdivision (d) or (e)."

The Dischargers failed to conduct interim remediation to contain plume migration, as described by directive No. 4.3 and required pursuant to Water Code section

13304. The Water Board is therefore authorized to impose civil liabilities pursuant to Water Code section 13350.

28. Administrative Civil Liability Authority – Water Code Section 13268

The Water Board may impose civil liability pursuant to Water Code section 13268, subdivision (a)(1). Water Code section 13268, subdivision (a)(1) states, in part:

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

The Dischargers failed to provide technical reports for describing actions to stop the source of the release, quarterly groundwater monitoring, investigating the extent of the discharge, and proposing clean-up of contamination in soil and groundwater, as described by directive Nos. 4 through 7 of the CAO and required pursuant to Water Code section 13267. The Water Board is therefore authorized to impose civil liabilities pursuant to Water Code section 13268.

PROPOSED CIVIL LIABILITY

29. Civil Liability – California Water Code

Any person who violates any cleanup and abatement order shall be liable civilly, and remedies may be proposed. The Water Board may impose civil liability in an amount up to that specified by the Water Code. Section 13350, subdivision (e)(1) states, in part:

“(e) The state board or a regional board may impose civil liability administratively pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 either on a daily basis or on a per gallon basis, but not both.

(1) The civil liability on a daily basis may not exceed five thousand dollars (\$5,000) for each day the violation occurs.

(A) When there is a discharge and a cleanup and abatement order is issued...the civil liability shall not be less than five hundred dollars (\$500) for each day in which the discharge occurs and for each day the cleanup and abatement order is violated.”

Any person failing or refusing to furnish technical or monitoring program reports as required of section 13267, is guilty of a misdemeanor and may be liable civilly in accordance with section 13268. Subdivision (b)(1) states:

“(b)(1) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5

for a violation of subdivision (a) in an amount which shall not exceed one thousand dollars (\$1,000) for each day in which the violation occurs."

- a. The Dischargers violated two requirements under directive No. 4 in CAO No. R6T-2007-0038.

- i. The maximum amount of civil liability for violation of directive No. 4.2 of the CAO under Water Code section 13268, subdivision (b)(1) is \$141,000 for 141 days of violation. This maximum administrative liability is based upon:

$$(141 \text{ days of violation of directive No. 4.2}) \times (\$1,000/\text{day of violation}) = \\ \mathbf{\$141,000}$$

- ii. The maximum amount of civil liability for violation of directive No. 4.3 of the CAO under Water Code section 13350, subdivision (e)(1) is \$1,285,000 for 257 days of violation. This maximum administrative civil liability is based upon:

$$(257 \text{ days of violation of directive No. 4.3}) \times (\$5,000/\text{day of violation}) = \\ \mathbf{\$1,285,000}$$

- b. The Dischargers violated the requirements under directive No. 5 in CAO No. R6T-2007-0038.

- i. The maximum amount of civil liability for violation of directive No. 5.2 of the CAO under Water Code section 13268, subdivision (b)(1) is \$115,000 for 115 days of violation. This maximum administrative liability is based upon:

$$(115 \text{ days of violation of directive No. 5.2}) \times (\$1,000/\text{day of violation}) = \\ \mathbf{\$115,000}$$

- c. The Dischargers violated three requirements under directive No. 6 in CAO No. R6T-2007-0038.

- i. The maximum amount of civil liability for violation of directive No. 6.1 of the CAO under Water Code section 13268, subdivision (b)(1) is \$228,000 for 228 days of violation. This maximum administrative liability is based upon:

$$(228 \text{ days of violation of directive No. 6.1}) \times (\$1,000/\text{day of violation}) = \\ \mathbf{\$228,000}$$

- ii. The maximum amount of civil liability for violation of directive No. 6.2 of the CAO under Water Code section 13268, subdivision (b)(1) is \$242,000

for 242 days of violation. This maximum administrative civil liability is based upon:

$$(242 \text{ days of violation of directive No. 6.2}) \times (\$1,000/\text{day of violation}) = \\ \mathbf{\$242,000}$$

- iii. The maximum amount of civil liability for violation of directive No. 6.3 of the CAO under Water Code section 13268, subdivision (b)(1) is \$228,000 for 228 days of violation. This maximum administrative liability is based upon:

$$(228 \text{ days of violation of directive No. 6.3}) \times (\$1,000/\text{day of violation}) = \\ \mathbf{\$228,000}$$

- d. The Dischargers violated one requirement under Directive No. 7 in CAO No. R6T-2007-0038.

- ii. The maximum amount of civil liability for violation of directive No. 7 of the CAO under Water Code section 13268, subdivision (b)(1) is \$245,000 for 245 days of violation. This maximum administrative liability is based upon:

$$(245 \text{ days of violation of directive No. 7}) \times (\$1,000/\text{day of violation}) = \\ \mathbf{\$245,000}$$

The cumulative maximum administrative civil liability for violations of directive Nos. 4 – 7 of CAO No. R6T-2007-0038 is **\$2,484,000**.

30. Factors Affecting the Amount of Civil Liability

Water Code section 13327 requires the Water Board to consider enumerated factors when it determines the amount of civil liability assessed pursuant to Water Code sections 13268 and 13350. Water Board staff considered those factors in recommending the amount of the administrative civil liability:

- a. The nature, circumstances, extent, and gravity of the violations;

Violating a CAO, classified as a "formal" enforcement action by the Water Quality Enforcement Policy, is a serious offense. Violating directive No. 4 of the CAO prevented Water Board staff from finding out actions taken to stop the source or cause of the petroleum release adversely affecting water quality. Late submittal of the First Quarter 2008 Groundwater Monitoring Report in violation of directive No. 5 prevented Water Board staff from knowing the status of contamination at the site and threat to beneficial uses. The Dischargers' violation of directive No. 6 prevents knowledge of the extent and degree of petroleum hydrocarbons contamination beneath the Facility. Finally, violation of

- directive No. 7 prevented abatement and containment of hydrocarbons in groundwater beneath the Facility. As a result of failing to comply with these four directives by their respective deadlines, Water Board staff was without necessary information concerning contamination at the Facility for 226 days.

b. Whether discharge is susceptible to cleanup or abatement;

The discharge of petroleum products to groundwater is susceptible to abatement. For a past release at the Facility, Mr. Erickson installed and operated a pump and treat system and soil vapor extraction system. These remediation systems were effectively containing from migration and abating hydrocarbons in groundwater until the systems ceased operating on February 2, 2008.

c. The degree of toxicity of the discharge;

Groundwater at the site contained gasoline-range petroleum hydrocarbons and known toxic volatile organic carbons, including benzene, toluene, ethylbenzene, xylenes, and trimethylbenzenes. Concentrations of these petroleum constituents in groundwater exceed drinking water standards and public health goals. Levels of benzene in groundwater at the Facility exceed the one-in-a-million risk level for cancer. Since the Dischargers ceased corrective actions for eight months, the fate and migration of the petroleum constituents in groundwater is not fully unknown.

d. Ability to pay;

On April 15, 2008, the Thomas E. Erickson Trust sold the Facility located at 4029 Lake Tahoe Blvd, South Lake Tahoe, CA to Stateline Gasoline, Inc. for \$450,000. Mr. Ahmad is the owner of Stateline Gasoline, Inc.

Mr. Ahmad is the current owner or part owner of the following residential properties:

- * 1173 Monte Rosa Drive, Carson City, NV (APN 010-441-16)
- * 1197 Monte Rosa Drive, Carson City, NV (APN 010-441-15)

Mr. Ahmad also is the President of V-R Property Management, an active Nevada Corporation (Corp. No C12489-1992). V-R Property Management currently owns property zoned for use as service stations at:

- * 1360 S. Carson Street, Carson City, NV (APN 003-063-06)
- * 2152 N. Carson Street, Carson City, NV (APN 001-032-05)
- * 1395 Highway 395, Gardnerville, NV (APN 1320-33-402)
- * 275 W. Williams Avenue, Fallon, NV (APN 001-532-07)

Given the assets and income described above, it appears the Dischargers are able to pay the liability.

- e. The effect on the Dischargers' ability to continue its business;

Water Board staff is not aware of any reason that the Dischargers' ability to continue their business would be affected by the proposed liability.

- f. Any voluntary cleanup efforts undertaken by the violator;

To date, the Dischargers have only implemented corrective actions at the site when ordered to by the Water Board in CAO No. R6T-2007-0038 and Water Code section 13267 orders.

- g. Prior history of violations;

Thomas E. Erickson has a history of violations in complying with directives for clean up at the Facility. In July 1999, the Water Board accessed approximately \$100,000 in state funds to conduct corrective actions at the site for one year when Mr. Erickson and other parties ceased to comply with directives in Amended CAO 6-98-42A1. In June 2000, the Water Board issued Administrative Civil Liability Order No. 6-00-60 to Mr. Erickson and other parties in the amount of \$131,000. The civil liability was assessed at the rate of \$500 per day of violation. The only known history of violation from Mr. Ahmad was belated compliance with the deadline for technical report submittal in Water Board's June 11, 2007 directive. The technical report was eventually submitted 65 days past the original submittal deadline of July 11, 2007.

- h. Degree of culpability;

Mohammad Ahmad and The Thomas E. Erickson Trust are identified as the "Dischargers" by CAO No. R6T-2007-0038 and, thus, are ultimately responsible for compliance with CAO No. R6T-2007-0038 and applicable state laws and regulations. Despite issuance of a Notice of Violation on February 26, 2008, Notice of Non-compliance on April 8, 2008, and repeated contacts between Water Board staff and the Dischargers' consultant, during which violations were discussed, the Dischargers failed to comply with applicable requirements.

- i. Economic savings resulting from the violation;

Water Board staff has calculated the Discharger's cost savings associated with violating the CAO. The nature of such cost savings would be "avoided costs" and "delayed costs." Avoided costs include those associated with quarterly monitoring and reporting for second quarter 2008 and operating the remediation systems. Estimated avoided costs are \$50,000. Delayed cost savings would be the potential interest earned on the delayed costs, which given the short violation

Send your remittance to:

Lahontan Regional Water Quality Control Board
Attn: Chuck Curtis, Supervising Engineer
2501 Lake Tahoe Boulevard
South Lake Tahoe, CA 96150

Ordered by: 
Chuck Curtis, Supervising Engineer
Cleanup and Enforcement Division

Dated: July 28, 2009

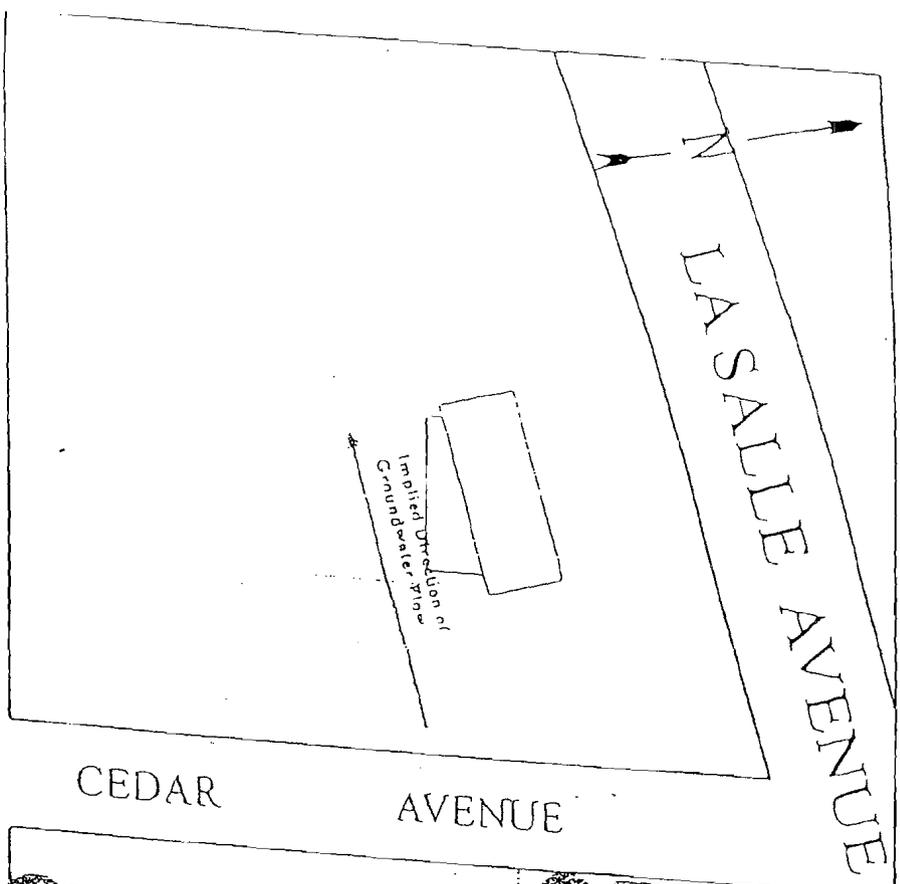
- Attachments:
- A. Site Vicinity Map
 - B. Cleanup and Abatement Order No. R6T-2007-0038
 - C. February 26, 2008 Notice of Violation
 - D. April 8, 2008 Notice of Non-compliance

01-0017

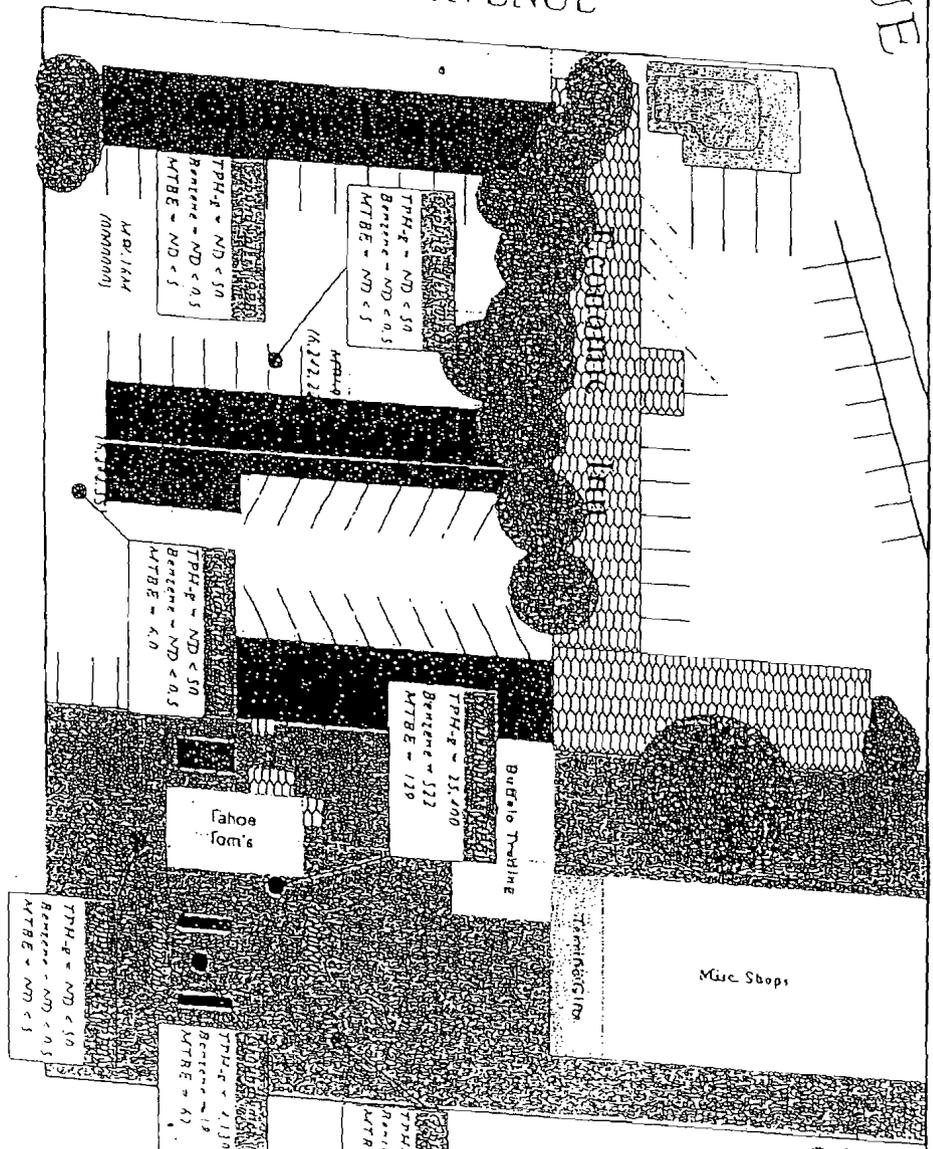
ATTACHMENT A

01-0018

GALLARDO & ASSOCIATES, INC.
 Environmental and Geological Services
 CHANDLER CONSTRUCTION MAT. Tahoe Tom's Gasoline Station
 Project 001-08, March 4, 2008



PARK AVENUE



Travel Lodge
 Parking Lot

U.S.

HWAY

01-0019
 50

ATTACHMENT B

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION

CLEANUP AND ABATEMENT ORDER NO. R6T-2007-0038

REQUIRING THE THOMAS E. ERICKSON TRUST
AND MOHAMMAD AHMAD
TO CLEAN UP AND ABATE THE EFFECTS OF
THE DISCHARGE OF PETROLEUM PRODUCTS
TO THE GROUNDWATERS OF THE LAKE TAHOE HYDROLOGIC UNIT
AT THE TAHOE TOM'S GASOLINE STATION LOCATED AT
4029 LAKE TAHOE BOULEVARD IN SOUTH LAKE TAHOE

El Dorado County

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

1. This is a new Cleanup and Abatement Order issued to The Thomas E. Erickson Trust and Mohammad Ahmad, for new discharges of petroleum products at the Tahoe Tom's Gasoline Station. This station has had a prior history of releases causing groundwater contamination and is the focus of active enforcement actions.
2. The Tahoe Tom's Gasoline Station (hereinafter referred to as the Facility) is located at 4029 Lake Tahoe Boulevard, South Lake Tahoe, El Dorado County (Assessor's Parcel Number 029-065-07).
3. On September 19, 2000, the Water Board issued Amended Cleanup and Abatement Order No. 6-98-42A2 (CAO). The Amended CAO required Thomas Erickson and Samina Naz to clean up and abate the effects of petroleum products discharged from underground storage tanks and associated piping to the groundwaters of the Lake Tahoe Hydrologic Unit at the Facility. Petroleum products are any oil-based products which can be obtained by distillation and are normally used outside the refining industry. Specifically, the Amended CAO required implementation of remedial actions to abate MTBE (methyl tertiary butyl ether) contamination threatening to adversely affect municipal and domestic drinking water wells and other beneficial uses. The Amended CAO directed quarterly monitoring and reporting until remediation has achieved background levels of groundwater quality.
4. On June 11, 2007, the Water Board issued an order to The Thomas E. Erickson Trust and Mr. Mohammad Ahmad to submit a technical report documenting an investigation of potential discharges of gasoline to groundwater at the Facility. The order states that monitoring data in the *First Quarter 2007 Groundwater Monitoring Report* shows petroleum hydrocarbon concentrations, with the exception of MTBE, increasing in groundwater compared to previous sampling

01-0021

events. Petroleum hydrocarbons in water samples collected from recovery well RW-10 showed the highest concentrations:

Benzene	1,070 micro grams per liter (µg/L)
Toluene	12,600 µg/L
Ethylbenzene	2,990 µg/L
Xylenes	15,400 µg/L
MTBE	230 µg/L
Total Petroleum hydrocarbons-gasoline	32,200 µg/L

Since the information was consistent with a new release, the order directed both parties to undertake an investigation to determine the source of recent petroleum discharge to groundwater. A technical report describing the investigation and results was due to the Water Board by July 11, 2007. When the technical report was not received by the deadline, the Water Board issued a Notice of Violation, dated July 25, 2007, to the same two parties.

8. On September 14, 2007, the Water Board received a document, prepared by CalClean on behalf of Mr. Ahmad, describing a tracer test investigation undertaken to determine the source of additional petroleum discharge in groundwater. The report states that three fill and turbine sumps and all four dispenser nozzles failed the tracer test. The report states that all areas indicating failures will be corrected shortly. To date, the Water Board has not received documentation verifying that repairs were made to the underground storage tank and dispenser system and that the release has been stopped.
9. Based on water sample results listed in Finding No. 7, a new unauthorized release of petroleum hydrocarbons is indicated at the Facility. The indication of a new release is supported by the increase in concentration of volatile organic compounds to water samples from 2006 and underground storage tank and dispenser system failures listed in Finding No. 8. The lack of increase in MTBE concentrations in the water samples suggests that the release occurred after the 2003 phase-out of MTBE in gasoline.
10. According to El Dorado County property records, The Thomas E. Erickson Trust became the owner of the Facility by September 1998. The agent for service of process is Mr. Thomas E. Erickson. As the owner of the facility, The Thomas E. Erickson Trust either knows or should have known of the discharge of waste and has the ability to control it. Consequently, The Thomas E. Erickson Trust is properly named as a responsible party subject to this order.
11. According to the El Dorado County Department of Environmental Management, Mr. Mohammad Ahmad is listed as the operator of the underground storage tanks on the permit issued for the Facility. As the current operator of the underground storage tanks on the permit issued for the Facility, Mr. Ahmad either knows or should have known of the discharge of waste and has the

ability to control it. Consequently, Mr. Ahmad is properly named as a responsible party subject to this order.

12. The beneficial uses of groundwater in the area as designated in the 1995 Water Quality Control Plan for the Lahontan Region ("Basin Plan") for the Lahontan Region include municipal and domestic supply, agriculture supply, fresh water replenishment, and industrial service supply.
13. Active and inactive supply wells near the Facility located in the downgradient groundwater flow direction include: the Mark Twain Motel Well, an active well located at 947 Park Avenue, about 600 feet to the north; inactive South Tahoe Public Utility District municipal wells, located on Black Rock Road, about 1,100 feet to the north; and active drinking water wells at 901 Park Avenue, 4074 and 4077 Pine Boulevard, located approximately 1,100, 1,200, and 1,300 feet respectively, to the north.
14. The Basin Plan establishes water quality objectives for the protection of beneficial uses. Those objectives include the following Maximum Contaminant Levels (MCLs) and Action Levels (ALs) that have been established by the California Department of Public Health (formerly the California Department of Health Services) as safe levels to protect public drinking water supplies:

Benzene	1 µg/L (MCL)
Toluene	150 µg/L (MCL)
Ethylbenzene	300 µg/L (MCL)
Xylenes	1,750 µg/L (MCL)
MTBE	13 µg/L (MCL)

The Basin Plan contains the following narrative taste and odor objectives for the Lake Tahoe Hydrologic Unit:

Groundwaters shall not contain taste or odor-producing substances in concentrations that cause nuisance or that adversely affect beneficial uses. For ground water designated as municipal and domestic supply, at a minimum, concentrations shall not exceed adopted secondary maximum contaminant levels specified in... Title 22 of the California Code of Regulations which is incorporated by reference into this plan.

The following Taste and Odor Thresholds (TOT) are adopted as secondary water quality goals by the United States Environmental Protection Agency or the California Department of Public Health for drinking water. Petroleum concentrations above these levels would violate the taste and odor objective in the Basin Plan:

Toluene	42 µg/L (TOT)
1,3,5-Trimethylbenzene	15 µg/L (TOT)
Ethylbenzene	29 µg/L (TOT)

Xylenes	17 µg/L (TOT)
MTBE	5 µg/L (TOT)
Total Petroleum	50 µg/L (TOT)
Hydrocarbons (Gasoline)	

15. The concentrations of benzene, toluene, ethylbenzene, xylenes, MTBE, and total petroleum hydrocarbons as gasoline detected in groundwater samples taken from wells on the Facility and referenced in Finding No. 7 exceed water quality objectives for groundwater specified in the Basin Plan, as listed in Finding No. 14. These concentrations adversely affect the groundwater for its beneficial uses, as listed in Finding No. 12.
16. The levels of waste in groundwater at the Facility constitute a pollution as defined in Water Code section 13050, subdivision (l); Pollution means an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects either of the following: (a) the waters for beneficial uses; or (b) facilities which serve these beneficial uses.
17. The discharge of petroleum products to the groundwaters of the Lake Tahoe Hydrologic Unit as described in Finding No. 8 violates a prohibition contained in the Basin Plan. Specifically, the discharge violates and threatens to violate the following discharge prohibition:
- "The discharge of waste... as defined in Section 13050(d) of the California Water Code which would violate the water quality objectives of this plan, or otherwise adversely affect the beneficial uses of water designated by this plan, is prohibited."
18. This enforcement action is being taken by this regulatory agency to enforce the provisions of the California Water Code and as such is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000 et. seq.) in accordance with California Code of Regulations, title 14, section 15321.

ORDERS

THEREFORE, IT IS HEREBY ORDERED that pursuant to Water Code sections 13267 and 13304, The Thomas E. Erickson Trust and Mohammad Ahmad (referred to hereafter as the "Dischargers") shall clean up and abate the discharge and threatened discharge of petroleum hydrocarbons to waters of the State, and shall comply with the provisions of this order:

1. Orders listed in Amended CAO No. 6-98-42A2 remain in effect and are not superseded by this enforcement action.

01-0024

2. The Dischargers shall conduct the investigation and cleanup tasks listed below by or under the direction of a California registered geologist or civil engineer experienced in the area of groundwater pollution cleanup. All technical documents submitted to the Water Board shall contain the signature and stamp of the registered individual overseeing corrective actions.
3. The Dischargers shall not cause or permit any additional waste to be discharged or deposited where it is, or probably will be, discharged into waters of the State.
4. Corrective Actions for the Release.
 - 4.1. **By December 28, 2007**, abate any and all releases from the facility.
 - 4.2. **By January 3, 2008**, submit a technical report to the Water Board describing corrective actions taken to stop the release at the Facility. At a minimum, the report must contain:
 - 4.2.1. Information about what was fixed, when it was fixed, how it was fixed, and who fixed it (provide contractor license number).
 - 4.2.2. A figure of the site and identification of the item(s) repaired.
 - 4.3. Continue to operate the existing remediation systems (pump and treat system and the soil vapor extraction system) until an alternate remediation system is proposed and implemented or it is determined by the Water Board, based on a proposal by the dischargers, that the operation of the remediation system is no longer necessary to address the problem.
5. Groundwater Monitoring and Reporting

The groundwater monitoring and reporting required in this Order are similar to that required in Cleanup and Abatement Order No. 6-98-42A2 issued to Samina Naz and Thomas E. Erickson. The Water Board will accept one report that complies with the reporting requirements of this Order and Cleanup and Abatement Order No. 6-98-42A2 as satisfying the reporting requirements of both Orders. In the alternative, the dischargers named in each order can submit separate reports.

- 5.1. **Beginning First Quarter 2008 (January – March 2008), and quarterly thereafter (sample collection dates must be at least 60 but not more than 120 days apart)**, conduct groundwater sampling at all on-site monitoring, vapor, and extraction well locations associated with the Facility: MW-1, MW-2A, MW-3, MW-3D, VE-12, VE-13, RW-1, RW-9A, RW-10. In addition, conduct groundwater sampling at the following off-site monitoring and extraction well locations: MW-4, MW-6, MW-8, MW-9, MW-16M, RW-3, RW-5A, RW-7B, RW-8. Also collect water samples from the Mark Twain Motel at 947 Park Avenue, subject to permission by the property owners.

- 5.2 **Beginning April 15, 2008, and every three months thereafter,** submit a technical report to the Water Board describing groundwater monitoring results for the prior quarter. The report must contain the following information:
- 5.2.1. Either a table of contents or an attachment list.
 - 5.2.2. Laboratory analytical results of water samples for the following constituents: TPH-gasoline using Method 8015 or its equivalent; all compounds capable of being identified by Method 8260 or its equivalent. Detection limits shall be no greater than 0.5 µg/L for volatile organic compounds and 50 µg/L for TPH as gasoline.
 - 5.2.3. A narrative description and analysis of all information provided.
 - 5.2.4. Potentiometric surface map for groundwater elevations in all monitoring wells. Show the ground water flow direction as an arrow on the map.
 - 5.2.5. Calculate horizontal hydraulic gradient.
 - 5.2.6. Maps showing the location of all monitoring wells and boundary lines of the dissolved petroleum plume out to 0.5 µg/L for benzene and 50 µg/L TPH for gasoline.
 - 5.2.7. Tabulate water analytical results and groundwater elevations for each well over time that includes all data collected since 2005.
 - 5.2.8. Description of groundwater elevation trend from previous monitoring event.
 - 5.2.9. Discussion of contaminant concentration trend in monitoring wells from previous monitoring event.
 - 5.2.10. Discussion of whether the dissolved petroleum plume is migrating, stable or reducing in size and concentration. Describe the basis for all conclusions.
 - 5.2.11. Submittal of laboratory analytical data, ground water information, and monitoring well locations in Electronic Data Format to the State Water Resources Control Board Geotracker Database.
 - 5.2.12. Identification of corrective actions planned during the next quarterly reporting period.
 - 5.2.13. All figures shall be in color.

6. Contaminant Investigation

- 6.1. **By February 1, 2008,** submit a workplan to the Water Board that is designed to determine the lateral and vertical extent of petroleum hydrocarbons in soil and groundwater due to the release at the Facility (see Findings No. 7, 8, and 9). The workplan must address any gaps in information regarding the lateral and vertical extent of contamination that are evident based on evaluation of available information (the technical report referenced in Finding No. 4 and technical reports required to be submitted pursuant to Cleanup and Abatement Order No. 6-98-42A2 which are available for review at the Water Board office). The workplan must propose collecting multi-depth samples or propose another suitable method to define the lateral and vertical extent of contamination out to

background (non-detect) concentrations. The investigation must be designed in a manner that does not promote the vertical migration of contaminants to lower portions of the aquifer. All maps must be drawn to scale, color coded, show all potential petroleum release source areas, and show proposed sampling locations.

- 6.2. **By February 22, 2008**, implement the site investigation workplan, as accepted by Water Board staff, for determining the extent of contamination in soil and groundwater. Notify the Water Board within one working day of implementing the investigation.
- 6.3. **By April 10, 2008**, submit a technical report to the Water Board that describes the soil and groundwater investigation conducted at the site in accordance with the workplan accepted by Board staff. All figures must be drawn to scale and in color. At a minimum, the report must:
 - 6.3.1. Provide a narrative description of work performed and information obtained.
 - 6.3.2. Include boring logs, monitoring well designs (if constructed), and analytical data.
 - 6.3.3. Include site maps showing the location of all borings and sampling points.
 - 6.3.4. Include an isoconcentration map with boundary lines of benzene in soil and groundwater out to 10 µg/kg and 1 µg/L, respectively, in all directions. Also include an isoconcentration map with boundary lines of TPH-gasoline in soil and groundwater out to 100 µg/kg and 50 µg/L, respectively, in all directions. Question marks shall indicate areas where boundaries are unknown.
 - 6.3.5. Describe the geology beneath the Facility and at off-site sampling locations.
 - 6.3.6. List the depth of first encountered groundwater at all points sampled. State whether perched zones were encountered and the basis for this finding. Describe whether or not the contaminants are following preferential pathways and the basis for that conclusion.
 - 6.3.7. If the full extent of contamination in soil or groundwater is not defined out to background levels, provide a workplan proposing a supplemental investigation.

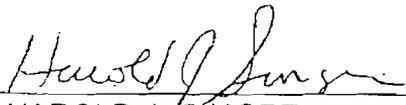
7. Corrective Action Plan (CAP)

By May 6, 2008, submit a CAP to the Water Board to abate impacts to soil and groundwater from discharges at the Facility. The CAP shall describe at least three cost-effective remediation technologies to restore groundwater to State of California primary or secondary Maximum Contaminant Levels for drinking water. Include the following information:

- 7.1. Summarize the extent of soil and groundwater contamination caused from releases at the Facility.
- 7.2. Provide a map showing the boundary of soil contamination out to 100 µg/kg for total petroleum hydrocarbons. Question marks shall be used to indicate unknown boundaries.
- 7.3. Provide a map showing the boundary of groundwater contamination out to 500 µg/L for total petroleum hydrocarbons. Question marks shall be used to indicate unknown boundaries.
- 7.4. Describe the geology beneath the Facility and at all off-site areas requiring remediation. Include geologic cross-sections to show the depth to the water table and the lateral and vertical extent of petroleum hydrocarbons.
- 7.5. Describe necessary equipment, materials and methods, implementation schedule, and permits required to implement each of the three technologies.
- 7.6. Estimate the cleanup time to achieve drinking water standards for each of the three technologies and the basis for the estimation.
- 7.7. State the recommended remediation technology to implement at the site for abating soil and groundwater contamination. Describe an estimate time frame for designing, permitting, constructing, and initial operation of the recommended technology.
- 7.8. All figures shall be in color.

Failure to comply with the terms or conditions of this Order will result in additional enforcement action that may include the imposition of administrative civil liability pursuant to sections 13268 and 13350 of the Water Code or referral to the Attorney General of the State of California for such legal action as he may deem appropriate.

Ordered by:


HAROLD J. SINGER
EXECUTIVE OFFICER

Dated:

Dec 24, 2007

ATTACHMENT C

01-0029



FEB 26 2008

Mohammad Ahmad
Tahoe Tom's Gasoline Station
4029 Lake Tahoe Boulevard
South Lake Tahoe, CA 96150

Certified Mail: 7006 2760 0003 9496 6885

The Thomas E. Erickson Trust
1468 Ashbrook Circle
Medford, OR 97501

Certified Mail: 7006 2760 0003 9496 6892

NOTICE OF VIOLATION WITH CLEANUP AND ABATEMENT ORDER NO. R6T-2007-0038, TAHOE TOM'S GAS STATION, 4029 LAKE TAHOE BOULEVARD, SOUTH LAKE TAHOE, EL DORADO COUNTY

This is to inform you that you are in violation with directives in Cleanup and Abatement Order (CAO) No. R6T-2007-0038 for the Tahoe Tom's Gas Station in South Lake Tahoe. The CAO, issued on December 24, 2007, requires the above-listed parties to conduct corrective actions and reporting for contamination from petroleum releases. To date, you are in violation with two directives.

Violations

Mohammad Ahmad and The Thomas E. Erickson Trust have failed to comply with the following directives in CAO R6T-2007-0038:

1. By January 15, 2008, submit a technical report to the Water Board describing corrective actions taken to stop the release at the Facility. At a minimum, the report must provide:
 - a. Information about what was fixed, when it was fixed, how it was fixed, and who fixed it (provide contractor license number).
 - b. A figure of the site and identification of the item(s) repaired.
2. By February 1, 2008, submit a workplan to the Water Board that is designed to determine the lateral and vertical extent of petroleum hydrocarbons in soil and groundwater due to the release at the Facility.

During a January 24, 2008 conference call with Lisa Dernbach of this office, your consultant, CalClean, stated its belief that a September 2007 document sent to the Water Board complied with the first directive for a technical report describing corrective actions taken to stop the release at the site. Ms. Dernbach clarified that the September 2007 document did not contain the items required in the CAO.

01-0030

Mohammad Ahmad
The Thomas E. Erickson Trust

- 2 -

To date, the Water Board has still not received the technical report that was due on January 15, 2008. In addition, the Water Board has not received a workplan, due on February 1, 2008, to investigate the extent of contamination from gasoline discharges identified in 2007.

Enforcement

Based upon your non-compliance status with two directives in the CAO, I plan to request assistance from the Attorney General's office in filing an injunction with El Dorado County Superior Court. The State's motion will request that the court compel you to immediately implement the required corrective actions in the CAO. Any actions you take to comply with directives in CAO R6T-2007-0038 before the court hearing will be acknowledged by the State and may result in reduced actions against you.

In addition, be aware that the Water Board may administratively impose civil liability for violations of CAO R6T-2007-0038. According to Water Code section 13350, the Water Board may impose a civil liability up to \$5,000 per day of non-compliance. You are urged to immediately come into compliance with requirements in CAO R6T-2007-0038 to reduce your exposure to future civil liability.

Finally, by copy of this letter, I am notifying State Water Resources Control Board (State Water Board) staff with the Underground Storage Tank Cleanup Fund of your non-compliance status with CAO R6T-2007-0038. Your status may affect State Water Board staff's ability to offer you reimbursement and a Letter of Commitment from the Cleanup Fund unless you take immediate steps to comply with CAO R6T-2007-0038.

I hope to hear from you or your agent in the near future. You may contact Lisa Dernbach at (530) 542-5424 if you have any questions or comments concerning this letter.



HAROLD J. SINGER
EXECUTIVE OFFICER

cc: El Dorado County, Dept. of Environmental Management, Virginia Huber
South Tahoe Public Utility District, Richard Solbrig
SWRCB, OCC, David Coupe
SWRCB, Div. of Water Quality, UST Cleanup Fund
City of South Lake Tahoe, David Jinkens
Tahoe Tom's Gas Station, Samina Naz

LSD/didT:/Tahoe Toms, NOV 2-13-08 lsd.let
[To be filed: UGT - El Dorado Co., 6T0080A]

01-0031

ATTACHMENT D

01-0032



California Regional Water Quality Control Board
Lahontan Region



Linda S. Adams
Secretary for
Environmental Protection

2501 Lake Tahoe Boulevard, South Lake Tahoe, California 96150
(530) 542-5400 • Fax (530) 544-2271
www.waterboards.ca.gov/lahontan

Arnold Schwarzenegger
Governor

APR 08 2008

Thomas E. Erickson
The Thomas E. Erickson Trust
1468 Ashbrook Circle
Medford, OR 97501

Certified Mail: 7007 3020 0001 0921 1410

NON-COMPLIANCE WITH: CLEANUP AND ABATEMENT ORDER NOS. R6T-2007-0038 AND 6-98-42A2, THE 2002 STIPULATED ORDER, AND THE COURT'S JANUARY 12, 2007, ORDER. TAHOE TOM'S GAS STATION, 4029 LAKE TAHOE BOULEVARD, SOUTH LAKE TAHOE, EL DORADO COUNTY

I am in receipt of your February 2, 2008 letter to Lisa Dernbach of this office stating that you are not able to pay for further remediation of contamination at the Tahoe Tom's Gas Station. You suggest that the Lahontan Water Board look to Mr. Mohammad Ahmad, the site lessee, for satisfying the terms of Cleanup and Abatement Order (CAO) No. R6T-2007-0038.

Response

It is this agency's understanding that The Thomas E. Erickson Trust is the property owner of the gas station and that you are the listed agent. It is also our understanding that, according to the Underground Storage Tank permit with El Dorado County, Mohammad Ahmad is the operator of the gas station.

As stated in the December 24, 2007 cover letter for CAO R6T-2007-0038, I consider both you and Mr. Ahmad to be responsible parties for potential discharges of waste at the subject property that threaten water quality. The CAO was issued based upon information indicating the facility is a new source for petroleum hydrocarbons that adversely affects the drinking water aquifer and threatens nearby drinking water wells. As long as one of the two parties is taking actions to comply with Water Board orders, I will consider both parties to be in compliance.

The cover letter further stated that if neither of the responsible parties complies with Water Board orders, all parties will be subject to enforcement action. Such an action may include issuance of an assessment of an administrative civil liability for up to five thousand dollars (\$5,000) for each day of violation of an order, and referral to the California Attorney General for appropriate action.

Violation of CAO R6T-2007-0038

On February 26, 2008, you and Mr. Ahmad were issued a Notice of Violation signed by me for violation of CAO R6T-2007-0038. Specifically, you and Mr. Ahmad were informed that you are in violation of the following orders and deadlines:

1. By January 15, 2008, submit a technical report to the Water Board describing corrective actions taken to stop the release at the Facility. At a minimum, the report must provide:
2. By February 1, 2008, submit a workplan to the Water Board that is designed to determine the lateral and vertical extent of petroleum hydrocarbons in soil and groundwater due to the release at the Facility.

Since the time that the Notice of Violation was issued, you and Mr. Ahmad are in violation of another directive in the CAO:

3. By February 22, 2008, implement the site investigation workplan, as accepted by Water Board staff, for determining the extent of contamination in soil and groundwater.

To date, the Water Board has still not received the technical report that was due on January 15, 2008 or the workplan, due on February 1, 2008, to investigate the extent of contamination from gasoline discharges identified in 2007. I also understand from Mr. Ahmad's consultant, Gallardo and Associates, that no site investigation has been conducted. Since neither of the responsible parties is complying with orders in CAO R6T-2007-0038, I plan to initiate enforcement actions listed in the Notice of Violation. Because there has been a release during the time Mr. Ahmad has been operating the gas station. I plan to include him as a responsible party for cleanup actions associated with this recent release.

Violation of CAO 6-98-42A2, the 2002 Stipulated Order, and the Court's January 12, 2007, Order

Amended CAO 6-98-42A2, issued to you and Samina Naz, the station's former operator, in 2002, required continuous implementation of corrective actions at the site to contain plume migration and restore the drinking water aquifer for beneficial uses. On October 11, 2002, the court executed a Stipulated Order, which requires you to operate the remediation systems at the site. On January 12, 2007, the court found you in contempt for violating the Stipulated Order. The court further ordered you to continue to operate the soil vapor extraction system unless ordered otherwise by the court.

I understand that, in February 2008, the soil vapor extraction system and the pump and treat system ceased operating. As a result, you and Ms. Naz are in violation of Order Nos. 3 and 5 in CAO 6-98-42A2, the Stipulated Order, and the court's January 12, 2007, order. Since the pump and treat system is no longer operating, it means there is

no longer containment of the hydrocarbon plume in groundwater. Lack of containment means that the plume poses a threat to downgradient municipal and private drinking water wells. I consider this threat unacceptable. You and Ms. Naz are solely responsible for compliance with CAO 6-98-42A2. If Mr. Ahmad operates the remediation systems pursuant to this Order, I will accept that as compliance.

I, therefore, intend to refer this matter to the Attorney General's Office. I urge you to re-start the two remediation systems as soon as possible.

You may contact Lisa Dernbach at (530) 542-5424 if you have any technical questions or comments concerning this letter. You may contact Nicholas Stern, Deputy Attorney General, (916) 323 -3840, for legal questions or comments.



HAROLD J. SINGER
EXECUTIVE OFFICER

cc: El Dorado County, Dept. of Environmental Management, Virginia Huber
South Tahoe Public Utility District, Richard Solbrig
SWRCB, OCC, David Coupe
SWRCB, Div. of Water Quality, UST Cleanup Fund
Attorney General's office, Nicholas Stern
Mohammad Ahmad, Tahoe Tom's Gasoline Station
Samina Naz, Tahoe Tom's Gasoline Station
City of South Lake Tahoe, David Jinkens
Lakeside Park Water Company
Station House Inn
Mark Twain Motel
Gallardo & Associates

LSD/didT./Tahoe Tom CAO response

ENCLOSURE 2

01-0036

Process Regular

RENO / CARSON MESSENGER SERVICE INC.

Date Printed: Jul 31 2009

RCMS Tracking #: 0280854

185 MARTIN ST
RENO, NV 89509
(775) 322-2424

Federal Tax ID: 88-030606

Case Heading:
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

MOHAMMAD AHMAD vrs.

Cause #: R6T-2009-0047

Court:

Docs:

SEE ATTACHED

INVOICE TOTAL DUE	
Total:	31.50
Pre-Paid Retainer:	0.00
Amount Due	31.50

Case Reference # TAHOE TOM'S GAS STATION/LISA D
Account Number: CALI9

CA REGIONAL WATER QUALITY CONTROL BOARD
2501 LAKE TAHOE BLVD
SOUTH LAKE TAHOE, CA 96150

Servee (s): MOHAMMAD AHMAD	
SSN	DOB
SSN	DOB
MOHAMMAD AHMAD	

Person Served:

Service Address: 2191 PYRAMID HWY POE: KWIK SERV GAS STATION
SPARKS, NV 89431

Served By: BURT ROBERTS
Date/Time Service: Jul 31 2009 4:00PM

Service notes and/or description of person served. SERVED MR AHMAD AT POE

Special Handling: NO ORIG AE
PERSONAL SERVICE
CALL IF UNABLE TO SERVE BY 8/6/09
DO NOT EXCEED \$31.50 WITH OUT AUTHORIZATION
WIFE'S NAME IS SAMINA NAZ
NO PREPAY, STATE AGENCY

Bad Addresses:

DESCRIPTION	Services Performed	Costs Detail	PRICE
SERVICE LOCAL			31.50

Service History and Notes

RECEIVED
AUG 06 2009
By *[Signature]*

01-0037

INVOICE COPY

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD LAHONTAN
REGION

CASE: CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD V.
MOHAMMAD AHMAD

CASE#: R6T-2009-0047

DOCUMENTS:

HEARING PROCEDURE FOR ADMINISTRATIVE CIVIL LIABILITY
COMPLAINT;

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO/ R6T-2009-0047;

TRANSMITTAL OF WRITTEN MATERIALS FOR CONSIDERATION OF AN
ADMINISTRATIVE CIVIL LIABILITY ORDER FOR MOHAMMAD AHMAD AND
THE THOMAS E. ERICKSON TRUST FOR VIOLATIONS OF (1) CALIFORNIA
WATER CODE SECTION 13267 AND (2) CALIFORNIA WATER CODE SECTION
13304, TAHOE TOM'S GAS STATION, 4029 LAKE TAHOE BOULEVARD, SOUTH
LAKE TAHOE, EL DORADO COUNTY

SUBMITTAL OF WRITTEN MATERIALS FOR CONSIDERATION OF AN
ADMINISTRATIVE CIVIL LIABILITY FOR MOHAMMAD AHMAD AND THE
THOMAS E. ERICKSON TRUST FOR VIOLATION OF 1) CALIFORNIA WATER
CODE SECOND 13267 AND, 2) CALIFORNIA WATER CODE SECTION 13304
TAHOE TOM'S GAS STATION EL DORADO COUNTY

ENCLOSURE 3

01-0040

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

ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R6T-2009-(PROPOSED)

**ADMINISTRATIVE CIVIL LIABILITY ORDER
AGAINST MOHAMMAD AHMAD AND THE THOMAS E. ERICKSON TRUST
FOR VIOLATIONS OF (1) CALIFORNIA WATER CODE SECTION 13267 AND
(2) CALIFORNIA WATER CODE SECTION 13304 -
TAHOE TOM'S GAS STATION**

El Dorado County

The California Regional Water Quality Control Board – Lahontan Region (Lahontan Water Board) finds that Mohammad Ahmad and the Thomas E. Erickson Trust have violated the following:

- A. Water Code section 13267 by failing to submit required reports and documentation by their due dates, as required by Cleanup and Abatement Order (CAO) No. R6T-2007-0038.
- B. Water Code section 13304 by failing to implement cleanup and abatement measures as required by CAO No. R6T-2007-0038.

A hearing on Complaint No. R6T-2009-0047 was held before the Lahontan Water Board on October 14, 2009. Based upon evidence and testimony received at the hearing, the Lahontan Water Board makes the following findings:

1. Dischargers

The Thomas E. Erickson Trust was the legal owner of El Dorado County Assessor Parcel Number (APN) 029-065-07-100 (Property) in 2007. The Tahoe Tom's Gas Station is located on the Property. As the legal owner of the Property at that time, the Thomas E. Erickson Trust is responsible for activities that took place on the Property. The Thomas E. Erickson Trust is a discharger identified in CAO No. R6T-2007-0038, and is responsible for complying with the requirements specified by that CAO.

Mohammad Ahmad is identified as the operator of the underground storage tanks on the operating permit for the Tahoe Tom's Gas Station, according to the El Dorado County Department of Environmental Management (County). Mohammad Ahmad is a discharger identified in CAO No. R6T-2007-0038, and is responsible for complying with the requirements specified by that CAO.

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The Thomas E. Erickson Trust and Mr. Mohammad Ahmad are hereinafter referred to as the "Dischargers."

2. Property

The Property (APN 029-065-07-100) is located at 4029 Lake Tahoe Boulevard in South Lake Tahoe, El Dorado County (See Attachment A – Vicinity Map.)

3. Facility

Tahoe Tom's Gas Station. The Property contains a gas station and food mart. Based on the underground storage tank operating permit issued by the County, there is one regular, unleaded tank and one super, unleaded tank on the Property. Two dispenser islands are used to dispense gasoline.

4. Discharge

Pollution of groundwater beneath the Property was verified by the Dischargers during an August 2007 tracer test investigation required by the Lahontan Water Board.

5. Enforcement History

Prior to CAO No. R6T-2007-0038, Mr. Erickson and Mr. Ahmad's wife, Samina Naz (the former operator), had been issued four cleanup and abatement orders and amendments for previous petroleum releases at the site affecting water quality. Non-compliance by the parties of one of the orders resulted in issuance of an administrative civil liability in 2000 by the Water Board. When neither party complied with the last amended order issued in 2002, the Attorney General's office, at the request of the Water Board, secured a Stipulated Order in El Dorado County Superior Court. The Order required specific clean up and abatement actions be completed by the parties by certain deadlines. The parties came into compliance with the amended CAO and the Stipulated Order in 2003.

In response to the unauthorized discharge of petroleum hydrocarbons to groundwaters of the Lake Tahoe Hydrologic Unit and threats to beneficial uses, the Lahontan Water Board Executive Officer issued CAO No. R6T-2007-0038 on December 24, 2007, pursuant to Water Code sections 13304, subdivision (a), and 13267, subdivision (b)(1). Among other requirements, the CAO required the Dischargers to take the following cleanup and investigation actions: (1) report actions to stop the source of the release, (2) conduct groundwater monitoring and submit technical reports, (3) operate the on-site pump and treat system to contain plume migration, (4) investigate the extent of the discharge, and (5) propose clean up of contamination in soil and groundwater.

On February 26, 2008, the Lahontan Water Board Executive Officer issued a Notice of Violation citing the Dischargers' failure to submit required technical information and implement corrective actions by deadlines listed in CAO No. R6T-2007-0038.

Then on April 8, 2008, the Water Board Executive Officer issued a Notice of Non-Compliance to the Thomas E. Erickson Trust for violation of the CAO, amended CAO No. 6-98-42A2 and the 2002 Stipulated Order. The letter was issued in response to a letter received from Mr. Erickson stating he lacked funds to continue complying with the CAO and to look to Mr. Ahmad for compliance.

6. Violation – Water Code section 13267

Water Code section 13267, subdivision (b)(1) states, in part,

“In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging ...waste within 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 Dischargers violated Water Code section 13267 subdivision (b)(1) in seven of nine CAO directives by failing to submit the following reports and/or documentation by specified due dates:

Directive No. 4.2. – Dischargers did not submit a technical report describing actions taken to stop the release, as required, until May 23, 2008, **141 days** past the deadline of January 3, 2008. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13268.

Directive No. 5.2. – Dischargers failed to submit quarterly monitoring reports by their respective deadlines on two occasions. The First Quarter 2008 monitoring report was not received until May 23, 2008, **38 days** past the deadline of April 15, 2008. The Second Quarter 2008 monitoring report, due by July 15, 2008, was never received. The violation continued until the Third Quarter 2008 monitoring report was received on September 30, 2008. There were **77 days** of violation between July 15 and September 30, 2008. The total number of days of violation pursuant to Directive 5.2 is **115**. These violations subject the Dischargers to civil liability pursuant to Water Code section 13268.

Directive No. 6.1. – Dischargers failed to submit a workplan proposing a site investigation to define the extent of soil and groundwater contamination from the new release until September 16, 2008, **228 days** past the deadline of February 1, 2008. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13268.

Directive No. 6.2. – Dischargers failed to implement the site investigation workplan, as required pursuant to Directive 6.2, until October 21, 2008, **242 days** past the deadline of February 22, 2008. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13268.

Directive No. 6.3. – Dischargers failed to submit the site investigation technical report required pursuant to Directive 6.3 until November 24, 2008, **228 days** past the deadline of April 10, 2008. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13268.

Directive No. 7. – Dischargers failed to submit a CAP to abate impacts to soil and groundwater from discharges at the Facility until January 6, 2009, **245 days** past the deadline of May 6, 2008. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13268.

7. Violation – Water Code section 13304

Water Code section 13304, subdivision (a) states, in part,

“Any person who has discharged or discharges waste into waters of the state ... shall upon order of the regional board, clean up the waste or abate the effects of the waste”

Directive No 4.3. – Dischargers failed to continually operate the existing remediation systems until October 16, 2008, **257 days** after ceasing operations on February 2, 2008. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13350.

8. Authority and Maximum Potential Civil Liability

Any person who violates any cleanup and abatement order issued pursuant to section 13304 may be liable civilly in accordance with section 13350. Section 13350, subdivision (e)(1) states, in part:

“(e) The state board or a regional board may impose civil liability administratively pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 either on a daily basis or on a per gallon basis, but not both.

(1) The civil liability on a daily basis may not exceed five thousand dollars (\$5,000) for each day the violation occurs.

Any person failing or refusing to furnish technical or monitoring program reports as required by section 13267 is guilty of a misdemeanor and may be liable civilly in accordance with section 13268. Section 13268, subdivision (b)(1) states:

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

For each period of violation of directives in the CAO, the Lahontan Water Board calculated the maximum civil liability as follows:

- a. The Dischargers violated two requirements under directive No. 4 in CAO No. R6T-2007-0038.
 - i. The maximum amount of civil liability for violation of directive No. 4.2 of the CAO under Water Code section 13268, subdivision (b)(1) is \$141,000 for 141 days of violation. This maximum administrative liability is based upon:

 $(141 \text{ days of violation of directive No. 4.2}) \times (\$1,000/\text{day of violation}) =$
\$141,000
 - ii. The maximum amount of civil liability for violation of directive No. 4.3 of the CAO under Water Code section 13350, subdivision (e)(1) is \$1,285,000 for 257 days of violation. This maximum administrative civil liability is based upon:

 $(257 \text{ days of violation of directive No. 4.3}) \times (\$5,000/\text{day of violation}) =$
\$1,285,000
- b. The Dischargers violated the requirements under directive No. 5 in CAO No. R6T-2007-0038.
 - i. The maximum amount of civil liability for violation of directive No. 5.2 of the CAO under Water Code section 13268, subdivision (b)(1) is \$115,000 for total of 115 days of violation. This maximum administrative liability is based upon:

 $(115 \text{ days of violation of directive No. 5.2}) \times (\$1,000/\text{day of violation}) =$
\$115,000
- c. The Dischargers violated three requirements under directive No. 6 in CAO No. R6T-2007-0038.
 - i. The maximum amount of civil liability for violation of directive No. 6.1 of the CAO under Water Code section 13268, subdivision (b)(1) is \$228,000 for 228 days of violation. This maximum administrative liability is based upon:

(228 days of violation of directive No. 6.1) x (\$1,000/day of violation) =
\$228,000

- ii. The maximum amount of civil liability for violation of directive No. 6.2 of the CAO under Water Code section 13268, subdivision (b)(1) is \$242,000 for 242 days of violation. This maximum administrative civil liability is based upon:

(242 days of violation of directive No. 6.2) x (\$1,000/day of violation) =
\$242,000

- iii. The maximum amount of civil liability for violation of directive No. 6.3 of the CAO under Water Code section 13268, subdivision (b)(1) is \$228,000 for 228 days of violation. This maximum administrative liability is based upon:

(228 days of violation of directive No. 6.3) x (\$1,000/day of violation) =
\$228,000

- d. The Dischargers violated one requirement under Directive No. 7 in CAO No. R6T-2007-0038.

- ii. The maximum amount of civil liability for violation of directive No. 7 of the CAO under Water Code section 13268, subdivision (b)(1) is \$245,000 for 245 days of violation. This maximum administrative liability is based upon:

(245 days of violation of directive No. 7) x (\$1,000/day of violation) =
\$245,000

The cumulative maximum administrative civil liability for violations of directive Nos. 4 – 7 of CAO No. R6T-2007-0038 is **\$2,484,000**.

9. **Factors Affecting the Amount of Civil Liability**

Water Code section 13327 requires the Water Board to consider enumerated factors when it determines the amount of civil liability imposed pursuant to sections 13268 and 13350. Water Board staff considered those factors, discussed below, in determining the amount of the administrative civil liability:

- a. The nature, circumstances, extent, and gravity of the violations;

Violating a CAO, classified as a "formal" enforcement action by the Water Quality Enforcement Policy, is a serious offense. Violating directive No. 4 of

CAO No. R6T-2007-0038 prevented Water Board staff from finding out actions taken to stop the source or cause of the petroleum release adversely affecting water quality. Late submittal of the First Quarter 2008 Groundwater Monitoring Report in violation of directive No. 5 prevented Water Board staff from knowing the status of contamination at the site and threat to beneficial uses. The Dischargers' violation of directive No. 6 prevents knowledge of the extent and degree of petroleum hydrocarbons contamination beneath the Facility. As a result of failing to comply with these three categories of directives by their respective deadlines, Water Board staff was without necessary information concerning contamination at the Facility for a combined total of 484 days. Finally, violation of directive No. 7 prevented abatement and containment of hydrocarbons in groundwater beneath the Facility for 245 days.

b. Whether discharge is susceptible to cleanup or abatement;

The discharge of petroleum products to groundwater is susceptible to cleanup and abatement. For a past release at the Facility, Mr. Erickson installed and operated a pump and treat system and soil vapor extraction system. These remediation systems were effectively containing plume migration and abating hydrocarbons in groundwater until the systems ceased operating on February 2, 2008.

c. The degree of toxicity of the discharge;

Groundwater at the site contained gasoline-range petroleum hydrocarbons and known toxic volatile organic carbons, including benzene, toluene, ethylbenzene, xylenes, and trimethylbenzenes. Concentrations of these petroleum constituents in groundwater exceed drinking water standards and public health goals. Levels of benzene in groundwater at the Facility exceed the one-in-a-million risk level for cancer. Since the Dischargers ceased corrective actions for eight months, the fate and migration of the petroleum constituents in groundwater is not fully unknown.

d. Ability to pay;

On April 15, 2008, the Thomas E. Erickson Trust sold the Facility located at 4029 Lake Tahoe Blvd, South Lake Tahoe, CA to Stateline Gasoline, Inc. for \$450,000. Mr. Ahmad was President of Stateline Gasoline, Inc. Then in September 2008, the property was gifted to Lake Tahoe Investments, LLC. This action allowed the new property owner to avoid paying a property transfer tax.

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In addition, Mr. Ahmad is the current owner or part owner of the following residential properties:

- * 1173 Monte Rosa Drive, Carson City, NV (APN 010-441-16)
- * 1197 Monte Rosa Drive, Carson City, NV (APN 010-441-15)
- * 4947 Foxcreek Trail, Reno, NV (APN 218-091-02)
- * 4947 Foxcreek Trail, Reno, NV (APN 218-091-03)

Mr. Ahmad also is the President of V-R Property Management, an active Nevada Corporation (Corp. No C12489-1992). V-R Property Management currently owns property zoned for use as service stations at:

- * 1360 S. Carson Street, Carson City, NV (APN 003-063-06)
- * 2152 N. Carson Street, Carson City, NV (APN 001-032-05)
- * 1395 Highway 395, Gardnerville, NV (APN 1320-33-402)
- * 275 W. Williams Avenue, Fallon, NV (APN 001-532-07)

Given the assets and income described above, it appears the Dischargers are able to pay the liability.

- e. The effect on the Dischargers' ability to continue its business;

Water Board staff is not aware of any reason that the Dischargers' ability to continue their business would be affected by the proposed liability.

- f. Any voluntary cleanup efforts undertaken by the violator;

To date, the Dischargers have only implemented corrective actions at the site when ordered to by the Water Board in CAO No. R6T-2007-0038 and Water Code section 13267 investigative orders.

- g. Prior history of violations;

Thomas E. Erickson has a history of violations in complying with directives for clean up at the Facility. In July 1999, the Water Board accessed approximately \$100,000 in state funds to conduct corrective actions at the site for one year when Mr. Erickson and other parties ceased to comply with directives in Amended CAO 6-98-42A1. In June 2000, the Water Board issued Administrative Civil Liability Order No. 6-00-60 to Mr. Erickson and Ms. Naz in the amount of \$131,000. The civil liability was assessed at the rate of \$500 per day of violation. The only known history of violation from Mr. Ahmad was belated compliance with the deadline for technical report submittal in Water Board's June 11, 2007 directive. The technical report was eventually submitted 65 days past the original submittal deadline of July 11, 2007.

h. Degree of culpability;

Mohammad Ahmad and the Thomas E. Erickson Trust are identified as the "Dischargers" by CAO No. R6T-2007-0038 and, thus, are ultimately responsible for compliance with CAO No. R6T-2007-0038 and applicable state laws and regulations. Despite issuance of a Notice of Violation on February 26, 2008, Notice of Non-compliance on April 8, 2008, and repeated contacts between Water Board staff and the Dischargers' consultant, during which violations were discussed, the Dischargers failed to comply with applicable requirements.

i. Economic savings resulting from the violation;

Water Board staff has calculated the Discharger's cost savings associated with violating the CAO. The nature of such cost savings would be "avoided costs" and "delayed costs." Avoided costs include those associated with quarterly monitoring and reporting for second quarter 2008 and operating the remediation systems. Estimated avoided costs are **\$50,000**. Delayed cost savings would be the potential interest earned on the delayed costs, which given the short violation period addressed by this Complaint would be small and substantially less than the proposed liability.

j. Other matters as justice may require.

Staff Costs

Staff from the State and Regional Water Boards have spent time responding to the incident and preparing the Administrative Civil Liability Complaint. Estimated staff costs for investigation and complaint preparation are **\$22,304**.

10. **Administrative Civil Liability Complaint Issued by Water Board Staff**

Water Board staff issued Administrative Civil Liability Complaint No. R6T-2009-0047 to the Dischargers on July 28, 2009. The Complaint states that the Dischargers violated seven of nine directives in the CAO, even after a Notice of Violation was issued on February 26, 2008. The Complaint recommends an administrative civil liability be imposed by the Water Board at a rate of \$500 per day for a total of 257 days of violation of Water Code section 13304 and at a rate of \$100 per day for a total of 1,199 days of violation of Water Code section 13267 for a total amount of **\$248,400**.

11. **California Environmental Quality Act**

This enforcement action is being taken by the Lahontan Water Board to enforce provisions of the Water Code and, as such, is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 210000 et seq.) in accordance with California Code of Regulations, title 14, section 15321.

IT IS HEREBY ORDERED THAT:

1. Administrative Civil Liability recommended in Complaint No. R6T-2009-0047, which was issued by Chuck Curtis, Supervising Water Resources Control Engineer, on July 28, 2009, is hereby affirmed.
2. The Lahontan Water Board imposes administrative civil liability against the Dischargers in the amount of \$248,400.
3. The Dischargers must provide payment with a cashier's check or money order in the amount of **\$119,900** to the State Board's Cleanup and Abatement Account by **November 14, 2009**.

The Dischargers must provide payment with a cashier's check or money order in the amount of **\$128,500** to the State Board's Waste Discharge Permit Fund by **November 14, 2009**.

4. If the Dischargers fail to make the specified payments to the State Board's Cleanup and Abatement Account and Waste Discharge Permit Fund within the time limits specified in this Order, the Lahontan Water Board may enforce this Order by applying for a judgment pursuant to Water Code section 13328. The Lahontan Water Board's Executive Officer is hereby authorized to pursue a judgment pursuant to Water Code section 13328 if the criterion specified in this paragraph is satisfied.

I, Harold J. Singer, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Lahontan Region, on October 14, 2009.

HAROLD J. SINGER
EXECUTIVE OFFICER

Attachments: Attachment A: Vicinity Map – Tahoe Tom's Gas Station
Attachment B: Site Map – Tahoe Tom's Gas Station

01-0050

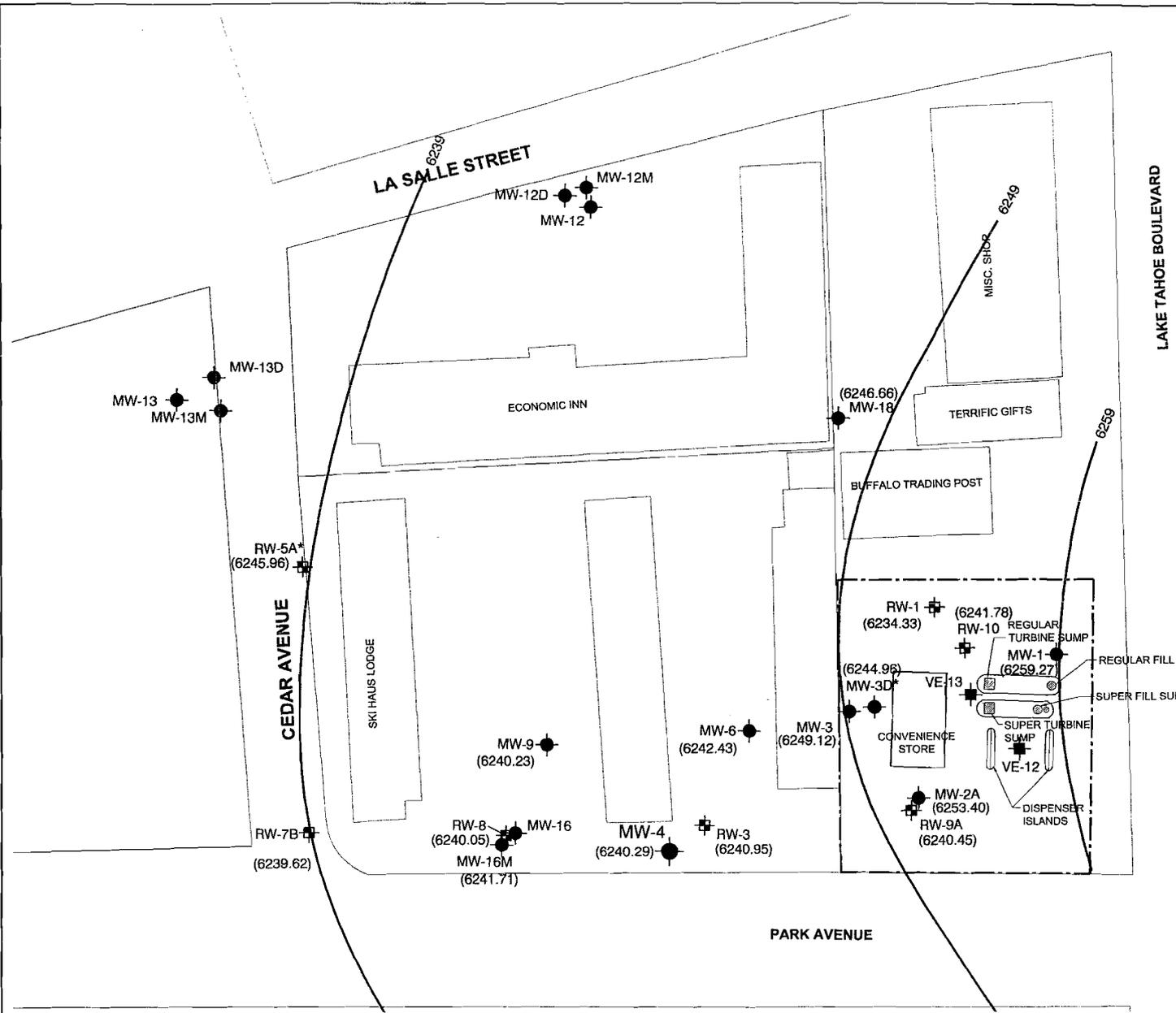
ATTACHMENT A

01-0051

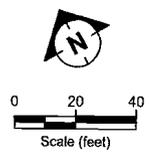
ATTACHMENT B

01-0053

01-0054



- LEGEND:**
- RW-1 Extraction wells
 - VE-12 Vapor wells
 - MW-1 Monitoring wells
 - Approximate site boundary
 - (6248.28) Groundwater elevation in feet above mean sea level (MSL)
 - 6259 Groundwater elevation contour line in feet above MSL
 - * Data not used in contouring



GROUNDWATER LEVEL ELEVATIONS DECEMBER 2, 2008		
TAHOE TOM'S GASOLINE STATION 4029 LAKE TAHOE BOULEVARD SOUTH LAKE TAHOE, CALIFORNIA		
	Date: 12/14/2008	Figure: 2