

California Regional Water Quality Control Board
North Coast Region

ORDER No. R1-2013-0063

REQUIRING TECHNICAL REPORTS PURSUANT TO
WATER CODE SECTION 13267(b) FOR
(Former) Marlow Center One-Hour Martinizing
and
D/Marlow Partners LLC

1791 Marlow Road
Santa Rosa, California

Sonoma County

The California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board) finds that:

1. D/Marlow Partners LLC owns and operates a shopping center on the parcel identified as APN 152-110-011, located at 1791 Marlow Road, Santa Rosa, Sonoma County, California, hereinafter the "Site" (Attachment A). D/Marlow Partners has owned the property since October 9, 1984. The D/Marlow Partners is a California registered Limited Partnership.
2. D/Marlow Partners LLC leased Unit #10 at the Site and the "Marlow Center One-Hour Martinizing" dry cleaning business operated from May 1985 through October 1998. The D/Marlow Partners LLC are hereinafter referred to as "the Dischargers."
3. In July 1997, American Auditing & Indemnity Group, Inc. reported the results of a Phase I and Phase II Environmental Site Assessment that investigated potential soil and groundwater contamination associated with the dry-cleaning operations at the Site. During this investigation, five out of eight soil samples collected from three soil borings at the Site revealed positive results for tetrachloroethylene (PCE). From July 1997 through October 1997, supplemental investigations conducted by Harris & Lee Environmental Sciences on behalf of the D/Marlow Partners confirmed the presence of PCE in soil and groundwater at the Site.
4. On July 20, 2004, due to lack of progress in the investigation, the Executive Officer issued Cleanup and Abatement Order No. R1-2004-0063 (CAO) requiring the Dischargers to clean up and abate the effects of the unauthorized discharges of PCE at the site. Requirements of the CAO included groundwater monitoring and reporting in accordance with Monitoring and Reporting Program (MRP) Order No. R1-2004-0063.

5. The Executive Officer revised the monitoring and reporting program three times, replacing MRP Order No. R1-2004-0063 with Orders R1-2005-0100, R1-2007-0049, and R1-2009-0017 on October 18, 2005, June 28, 2007, and October 26, 2009, respectively. On March 2, 2012, the Executive Officer rescinded MRP R1-2009-0117.
6. In March and May of 2011, sub-slab vapor sampling at the on-site commercial building showed concentrations of PCE exceeding the health risk based screening level. Current regulatory guidance¹ for investigating vapor intrusion to indoor air identifies the applicable risk-based screening level for PCE in sub-slab vapor at 13.86 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$). Analysis of sub-slab vapor samples from five of the six sampling locations showed PCE concentrations beneath the building ranging from 43.5 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) to 612 $\mu\text{g}/\text{m}^3$.
7. In a letter dated September 11, 2012, Regional Water Board staff concurred with an indoor air investigation plan proposed by EBA Engineering (EBA) on behalf of the D/Marlow Partners. The investigation plan is specified in the June 20, 2012 "Work Plan for Indoor Air Study," as amended in the September 4, 2012 "Additional Information Work Plan for Indoor Air Study."
11. In a June 7, 2013 letter to the Dischargers, Regional Water Board staff advised the Dischargers that the indoor air investigation must be implemented without further delay to assess potential risk to human health, and to evaluate the need for mitigating indoor air quality. To date, the indoor air investigation has not been implemented.
12. The following sections of the Water Code authorize the Regional Water Board Executive Officer to require persons suspected of violating Basin Plan objectives to provide technical information and reports:
 - a. Section 13267(a) - *"A regional board, in establishing or reviewing any water quality control plan or waste discharge requirements, or in connection with any action relating to any plan or requirement or authorized by this division, may investigate the quality of any waters of the State within its region."*
 - b. Section 13267(b) - *"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, 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 of the State 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."*

¹ GUIDANCE FOR THE EVALUATION AND MITIGATION OF SUBSURFACE VAPOR INTRUSION TO INDOOR AIR (VAPOR INTRUSION GUIDANCE), Department of Toxic Substances Control, California Environmental Protection Agency October 2011; and
- Use of California Human Health Screening Levels in Evaluation of Contaminated Properties. Cal/EPA January 2005

13. All of the technical reports required by this Order are necessary to ensure that the prior harm and future threat to water quality and associated nuisance conditions created by the discharges described above are properly abated and controlled.
14. The Discharger must provide information about indoor air quality at the Site to Regional Water Board staff, to allow staff to evaluate the threat of vapor intrusion of volatile organic compounds to indoor air. Given that PCE in sub-slab vapor is present at concentrations exceeding acceptable health risk screening levels, the burden, including costs, of the reports required by this Order bear a reasonable relationship to the need for the reports and the benefits to be obtained therefrom.
15. Failure to comply with the terms of this Order may result in further enforcement under the California Water Code. Any person failing to provide technical reports containing information required by this Order by the required date(s) or falsifying any information in the technical reports is, pursuant to Water Code section 13268, guilty of a misdemeanor and may be subject to administrative civil liabilities of up to one thousand dollars (\$1,000.00) for each day in which the violation occurs.
16. Any person affected by this action of the Regional Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with California Water Code section 13320 and Title 23, California Code of Regulations, section 2050. The petition must be received by the State Water Board within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request. In addition to filing a petition with the State Board, any person affected by this Order may request the Regional Water Board to reconsider this Order. To be timely, any such request must be made within 30 days of the date of this Order. Note that even if reconsideration by the Regional Water Board is sought, filing a petition with the State Water Board within the 30-day period is necessary to preserve the petitioner's legal rights. If you choose to request reconsideration of this Order or file a petition with the State Water Board, be advised that you must comply with the Order while your request for reconsideration and/or petition is being considered.

THEREFORE, IT IS HEREBY ORDERED that, pursuant to California Water Code section 13267(b), the Discharger shall, by December 17, 2013:

1. Submit a technical report furnishing indoor air quality data collected at the Site in accordance with the scope of work specified in the June 20, 2012 "Work Plan for Indoor Air Study," and as amended in the September 4, 2012 "Additional Information Work Plan for Indoor Air Study."

Ordered by: _____

Matthias St. John
Executive Officer

September 19, 2013