Linda S. Adams
Secretary for
Environmental Protection

California Regional Water Quality Control Board
San Diego Region

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(858) 467-2952 • Fax (858) 571-6972
http://www.waterboards.ca.gov/sandiego

May 11, 2009

In Reply Refer to:
T0607399052:spease

Mr. Soni and Mrs. Carmen Nanci
14335 Pauma Vista Drive
Valley Center, CA 92082
Certified Mail – Return Receipt Requested
7008 1140 0002 4285 3681

Mr. Omar Tartir
Orange Glen Market
2741 E. Valley Parkway
Escondido, CA 92027
Certified Mail – Return Receipt Requested
7008 1140 0002 4285 3711

Dear Mr. and Mrs. Nanci and Mr. Tartir:

SUBJECT: CLEANUP AND ABATEMENT ORDER NO. R9-2009-0074 ORANGE GLEN MARKET, 2741 EAST VALLEY PARKWAY, ESCONDIDO, CA

Enclosed Is Cleanup and Abatement Order No. R9-2009-0074, issued by the California Regional Water Quality Control Board, San Diego Region (Regional Board) pursuant to California Water Code sections 13267 and 13304. This Order directs you cleanup and abate the affects of the unauthorized release of petroleum hydrocarbons from the subject former gasoline station facility, and to submit technical reports to the Regional Board.

If you fail to comply with the Order fully, under the authority of California Water Code section 13304, the Regional Board may have the Attorney General petition the San Diego County Superior Court for the issuance of an injunctive requiring the person to comply with the Order. If you fail to furnish information required by the Order or falsify information submitted to the Regional Board, pursuant to Water Code section 13304, you are guilty of a misdemeanor and may be subject to civil liability. Under Water Code section 13350 (e), a civil liability may be imposed administratively by the Regional Board in an amount of up to $5,000 per day of violation (i.e., for each day of delay in submitting all information requested, or for each day that false information remains uncorrected).

for an evidentiary hearing does not stay the effective date of the Order. Any person affected by this action of the Regional Board may petition the State Board as described in the Order, section C.4. A request for an evidentiary hearing does not extend the 30-day period to file a petition with the State Board.

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

If you have any questions please contact Sue Pease of my staff at (858) 637-5596 or by email at spease@waterboards.ca.gov.

Respectfully,

MICHAEL P. McCANN
Assistant Executive Officer
San Diego Regional Water Quality Control Board

Attachment: Cleanup and Abatement Order No. R9-2009-0074

MPM:jac:rwm:sjp c:\Orange Glen Market\CAOR9-2009-0074.doc

cc: Keith Etchells, Project Geologist, SCS Engineers, 8799 Balboa Ave., Suite 290, San Diego, CA 92123

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

CLEANUP AND ABATEMENT ORDER NO. R9-2009-0074

AN ORDER DIRECTING MR. OMAR TARTIR, MR. SONI NANCI AND MRS CARMEN NANCI, TO CLEANUP AND ABATE THE EFFECTS OF POLLUTION, AND SUBMIT TECHNICAL REPORTS PERTAINING TO CORRECTIVE ACTIONS AT THE SITE OF

THE ORANGE GLEN MARKET,
2741 EAST VALLEY PARKWAY,
ESCONDIDO, CALIFORNIA

The California Regional Water Quality Control Board, San Diego Region (herein after Regional Board) finds:

1. **Legal and Regulatory Authority:** This Order is based on (1) sections 13267 and 13304 of the California Water Code (Water Code); (2) applicable state and federal regulations; (3) all applicable provisions of statewide Water Quality Control Plans adopted by the State Water Resources Control Board (State Board) and the *Water Quality Control Plan for the San Diego Basin* (Basin Plan) adopted by the Regional Board including beneficial uses, water quality objectives, and implementation plans; (4) State Board policies and regulations, including State Board Resolution No. 68-16 (*Statement of Policy with Respect to Maintaining High Quality of Waters in California*), Resolution No. 88-63 (*Sources of Drinking Water*), and Resolution No. 92-49 (*Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under Water Code Section 13304*); California Code of Regulations (CCR) Title 23, Chapter 16, Article 11; CCR Title 23, section 3890 et. seq., and (5) relevant standards, criteria, and advisories adopted by other state and federal agencies.

2. **Persons Responsible for the Discharge of Wastes:** Mr. Omar Tartir formerly owned and operated the retail gasoline station known as the Orange Glen Market (hereinafter referred to as the facility), located at 2741 East Valley Parkway, Escondido, CA. The facility is currently owned and operated by Mr. Soni Nanci and Mrs. Carmen Nanci. In 1999, petroleum hydrocarbon wastes were discovered in soil and ground water beneath the facility when the underground storage tank (UST) system was removed. These petroleum hydrocarbons are not naturally occurring and are wastes, as defined in Water Code section 13050, subdivision (d).

3. **Unauthorized Discharge of Petroleum Hydrocarbon Wastes**: Groundwater monitoring results from the *Fourth Quarter 2008 Groundwater Monitoring and Sampling Report* revealed concentrations of petroleum hydrocarbon wastes in ground water greater than applicable water quality objectives as shown below:

Section 1.01 onstituent	***Water Quality Objectives (micrograms per liter or µg/L)***	***Maximum Groundwater Concentration (µg/L)***
Benzene	1	3,700
Toluene	150	13,000
Ethylbenzene	300	2,800
Xylenes	1,750	14,200
MTBE[a]	13	1,100,000
TBA[b]	12[1]	130,000

a. MTBE is methyl-tertiary-butyl ether
b. TBA is tertiary butyl alcohol

4. **Beneficial Uses of Ground Water:** The cleanup facility is located within the Escondido Hydrologic Subarea (Basin No. 904.62), of the Carlsbad Hydrologic Unit (Basin No. 4.00). The Basin Plan designates the following beneficial uses of ground water in the Escondido Hydrologic Subarea:

    a. Municipal and domestic supply
    b. Agricultural supply
    c. Industrial service supply
    d. Industrial process supply

    Concentrations of benzene, toluene, ethylbenzene, xylenes, MTBE, and TBA exceed the water quality objectives needed to support municipal and domestic supply beneficial uses of the ground water.

5. **Beneficial Uses of Surface Water:** The cleanup facility is located within the Escondido Creek watershed. The Basin Plan designates the following beneficial uses of surface water in the Escondido Creek watershed:

    a. Potential municipal and domestic supply
    b. Industrial service supply
    c. Contact water recreation

[1] **California Notification Level** -- Notification levels are published by the California Department of Health Services (DHS) for chemicals for which there is no drinking water MCL. Notification levels are based mainly on health effects - an incremental cancer risk estimate of 10^{-6} for carcinogens and a threshold toxicity limit for other constituents. When they are purely health-based, notification levels may also be used to interpret narrative water quality objectives that prohibit toxicity to humans that beneficially use the water resource. California Department of Health Services, Division of Drinking Water and Environmental Management, *Drinking Water Notification Levels*, http://www.dhs.ca.gov/ps/ddwem/chemicals/AL/notificationlevels.htm.

d. Non-contact water recreation
e. Warm freshwater habitat
f. Cold freshwater habitat
g. Wildlife habitat

Proximity of the discharge to Escondido Creek threatens the potential municipal and domestic supply and the contact water and non-contact water recreation beneficial uses of the creek.

6. **Basis of Cleanup and Abatement Order:** The Dischargers have caused or permitted waste to be discharged or deposited where it is, or probably will be discharged into waters of the State, and creates or threatens to create a condition of pollution or nuisance. Therefore, pursuant to Water Code section 13304, the Regional Board is authorized to order the Dischargers to cleanup the wastes and abate the effects of the wastes.

7. **Cleanup Levels:** The Basin Plan includes criteria for determining appropriate soil and groundwater cleanup levels for protection of both human health and the environment. The cleanup levels are based upon beneficial uses and associated water quality objectives identified within the Basin Plan.

8. **Basis for Requesting Reports:** Section 13267(b) of the Water Code provides in part that: "(1) In conducting an investigation specified in [section 13267] 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...shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports."

9. **Need for and Benefit of Technical Reports:** Technical reports are needed to provide information to the Regional Board regarding the condition of pollution attributed to the leaking underground storage tanks at the facility. The benefits to be obtained from a technical report include enabling the Regional Board to determine if the condition of pollution poses a threat to human health in the vicinity of the facility and providing technical information that will be used to determine what additional corrective actions are necessary to bring the facility into compliance with applicable water quality standards, and/or if further enforcement action(s) is warranted. Based on the nature and possible consequences of the discharges the burden of providing the required reports

bears a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.

10. **State Board Resolutions:** The State Board adopted Resolution No. 92-49, the *Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under Water Code section 13304*. This Resolution sets forth the policies and procedures to be used during an investigation or cleanup of a nuisance site and requires that cleanup levels be consistent with State Board Resolution No. 68-16, the *Statement of Policy with Respect to Maintaining High Quality of Waters in California*. Resolution No. 92-49 and the Basin Plan establish the cleanup levels to be achieved. Resolution No. 92-49 requires the waste to be cleaned up to background, or if that is not reasonable, to an alternative level that is the most stringent level that is economically and technologically feasible in accordance with Title 23, CCR section 2550.4. Any alternative cleanup level greater than background must (1) be consistent with the maximum benefit for the people of the state; (2) not unreasonably affect present and anticipated beneficial use of such water; and (3) not result in water quality less than that prescribed in the Basin Plan and applicable Water Quality Control Plans and Policies of the State Board.

11. **California Environmental Quality Act (CEQA) Compliance:** This enforcement action is being taken for the protection of the environment and is exempt from the provisions of the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.) in accordance with section 15308, Chapter 3, Title 14 of the CCR. The issuance of this Order is also an enforcement action taken by a regulatory agency and is exempt from the provisions of CEQA pursuant to section 15321(a) (2), Chapter 3, Title 14 of the CCR. This action is also exempt from the provisions of CEQA in accordance with section 15061(b) (3) of Chapter 3, Title 14 of the CCR because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

12. **Qualified Professionals.** The Dischargers reliance on qualified professionals promotes proper planning, implementation, and long-term cost-effectiveness of investigation, and cleanup and abatement activities. Professionals should be qualified, licensed where applicable, and competent and proficient in the fields pertinent to the required activities. California Business and Professions Code sections 6735, 7835, and 7835.1 require that engineering and geologic evaluations and judgments be performed by or under the direction of registered professionals.

IT IS HEREBY ORDERED that, pursuant to sections 13267 and 13304 of the Water Code, the Dischargers must comply with the following Directives:

A. CLEANUP AND ABATE DISCHARGES: The Dischargers shall take all corrective actions necessary to cleanup and abate the effects of the discharge.

B. INTERIM REMEDIAL ACTION: The Dischargers shall immediately implement interim remedial actions to abate or correct the actual or potential effects of the unauthorized release pursuant to CCR Title 23, Chapter 16, section 2722 (b) as necessary. Interim remedial actions may include but are not limited to activities that remove all free product (or LNAPL), remove petroleum hydrocarbon sources (e.g. soil saturated with petroleum hydrocarbons) and/or mitigate nuisance of all surface and ground water affected by the waste discharge. Interim remedial actions can occur concurrently with any phase of the site investigation or remedial action. On or before **July 30, 2009,** the Dischargers must notify the Regional Board in writing of interim remedial actions by doing one of the following:

1. **Interim Remedial Actions to mitigate emergency conditions:** The Dischargers shall provide a technical report documenting any work performed to mitigate emergency conditions of pollution or nuisance created by the discharge of petroleum hydrocarbons at the facility. The Dischargers must submit the technical report to the Regional Board within 15-days after completing the work to mitigate emergency conditions under this directive;

2. **Interim Remedial Actions to mitigate non-emergency conditions:** The Dischargers shall provide a proposed workplan to mitigate non-emergency conditions and schedule at least thirty days prior to initiating any interim remedial actions. The Dischargers must implement its interim remedial actions within 30 days of submitting the workplan to the Regional Board.

C. SITE ASSESSMENT

1. **Site Assessment Workplan:** The Dischargers shall develop and submit to the Regional Board by **August 30, 2009**, a workplan adequate to guide the collection of needed information to produce an adequate Site Assessment Report described in Directive C.3.

   a. Human Health Vapor Risk Assessment: The workplan shall include a plan adequate to guide the collection of needed information to perform the Human Health Vapor Risk Assessment described in Directive B.3.i.

   b. Activity Completion Schedule: The workplan shall include a schedule for completion of all activities and submission of a final Site Investigation and Characterization Report described in Directive B.3.

c. Workplan Implementation: The Dischargers shall implement the workplan within and no later than **60 days** after submission of the workplan and according to the activities completion schedule contained in the workplan, unless otherwise directed in writing by the Regional Board. Before beginning these activities the Dischargers shall:

   i. Notify the Regional Board of the intent to initiate the proposed actions included in the workplan submitted; and
   ii. Comply with any conditions set by the Regional Board, including mitigation of adverse consequences from cleanup activities.

d. Regional Board Notification: The Dischargers shall give the Regional Board notification at least one week before the start of fieldwork.

2. **Site Conceptual Model:** On or before **November 30, 2009**, the Dischargers shall submit a Site Conceptual Model (SCM) that provides a written or pictorial representation of the release scenario and the likely distribution of waste at the facility, offsite, as well as potential pathways and receptors. The SCM must identify and describe the types of wastes present including their distribution in space and time, and how the wastes are changing in space and time. In addition the SCM must identify the potential, current, and future receptors in the area; link potential sources to potential receptors through transport of wastes in the air, soil, and water; and identify the fate and transport characteristics of the facility. It should describe or show the physical characteristics and properties of the subsurface and identify the environmental issues that need to be investigated (and those issues that do not need to be addressed) The SCM must include data interpretations, a discussion of the level of uncertainty of conclusions, outline data gaps remaining in the conceptual model, and make recommendations for the next phase of cleanup.

3. **Site Assessment Report:** The Dischargers shall prepare and submit a Site Assessment Report (Report) describing the results of the site investigation. The Report is due no later than 5:00 p.m. on **January 30, 2010** and shall contain the following information:

   a. Source Characterization: The report shall contain the results of an investigation of all potential sources of waste constituent discharges to soil and ground water including, but not limited to, historical records of operations, site reconnaissance, and previous sampling studies. The information in the technical report shall provide an adequate basis for determining subsequent effective cleanup and abatement actions. All sources of waste constituent releases shall be located on a site map at a scale of 1 inch = 200 feet or larger, with an appropriate contour interval to depict site topography.

b. Geologic Characterization: The report shall contain an accurate characterization of the subsurface geology, the hydrogeologic characteristics, and all preferential pathways that may affect groundwater flow and contaminant migration.

c. Groundwater Flow Characterization: The report shall describe the rate(s) and direction(s) of local groundwater flow, in both the horizontal and vertical dimension for all water-bearing units potentially affected by the waste constituent(s) from the facility.

d. Extent of Waste Constituent Characterization: The report must adequately characterize the extent (both laterally and vertically) of each waste constituent in soil and ground water to the background[2] concentration for that waste constituent, and characterize any pollution that has migrated off-property.

e. Groundwater Monitoring Wells: The report shall describe the location of existing monitoring wells, and the proposed location of additional monitoring wells, needed to characterize the types of waste constituents present, the concentrations of waste constituents, and their lateral and vertical extent in ground water.

f. Field Methodologies: The report shall describe the field methodologies used for drilling, soil sampling, groundwater sampling, well and peizometer construction, geophysical surveys, and other activities. Selected methods for purging and sampling monitoring wells must be capable of providing representative samples of ground water for detecting all of the waste constituents.

g. Chemical Analyses: The report shall describe the laboratory analytical methods and protocols used for each environmental medium including soil, soil vapor, and water. The suite of chemical analyses, methods and protocols must be adequate to quantitatively identify and characterize the full range of site-specific waste constituents.

h. Sample Locations and Number: The report shall contain the locations, type, and number of samples identified and shown on a site map and cross sections. The number of samples and suite of chemical analyses must be sufficient to identify the nature of waste constituent(s) and their sources, to define the distribution of waste constituents in the subsurface, to provide data for evaluation of fate and transport of pollutants, risk assessment, remedy selection, and remedial design. In addition, samples shall be

[2] "Background" means the concentrations or measures of constituents or indicator parameters in water or soil that have not been affected by waste constituents from the site.

collected to evaluate physical properties of soils and aquifer materials. All monitoring data shall be presented in tabular format including the sample result, sample medium, location, depth, sampling method, analyses and rationale for the method.

i. Human Health Vapor Risk Assessment: The report shall contain the results of a human health risk assessment for residents living downgradient of the facility, and risk to children in a school upgradient of the facility. The risks from each chemical and from all applicable exposure pathways shall be summed to obtain the overall screening level risk posed by chemicals detected from the facility. The human health risk assessment shall follow the Department of Toxics Substances Control (DTSC), 2004, Guidance for the Evaluation and Mitigation of Subsurface Vapor Intrusion to Indoor Air.

j. Updated Site Conceptual Model: The report shall contain an updated SCM that updates the initial SCM using all data collected at the facility. The updated SCM must include data, interpretations, and a discussion of the level of uncertainty of conclusions.

D. CORRECTIVE ACTION PLAN (CAP): The Dischargers shall prepare and submit to the Regional Board by **April 30, 2010**, a CAP that satisfies the provisions of section 2725 of the regulations governing underground storage tanks (CCR, Title 23, Chapter 16 section 2600, et seq.). The CAP must contain all the elements specified in Article 11, section 2725 including:

1. **Assessment of Impacts:** The CAP shall include an assessment of impacts in accordance with Article 11, section 2725 (e), which includes but is not limited to:

   a. The physical and chemical characteristics of the hazardous substance or its constituents, including their toxicity, persistence and potential for migration in water, soil and air.

   b. The hydrogeologic characteristics of the facility and the surrounding area where the unauthorized release has migrated or may migrate.

   c. The proximity and quality of nearby surface water or ground water, and the current and potential beneficial uses of these waters.

   d. The potential effects of residual contamination on nearby surface water and ground water.

2. **Feasibility Study:** The CAP shall include a feasibility study to evaluate alternatives for cleanup of soil and ground water. The evaluation shall be

consistent with the requirements of CCR Title 23, Division 3, Chapter 16, section 2725(f) and include the following elements:

a. An evaluation of the effectiveness, feasibility, and cost of at least two alternatives to attain the following primary Maximum Contaminant Levels (MCL's) water quality levels:

Constituents	Maximum Contaminant Level (ug/L)
Benzene	1
Toluene	150
Ethylbenzene	300
Total Xylenes	1,750
Methyl Tertiary Butyl Ether	13

b. An evaluation of methods to control the spread of free product and the dissolved contaminant plume off the property.

c. A comprehensive description of the cleanup and abatement activities associated with each recommended alternative.

d. A proposed time schedule, including interim milestone dates, for completion of each recommended alternative.

3. **Cleanup Levels:** The CAP shall evaluate applicable cleanup levels in accordance with the requirements of Article 11, section 2725(g) and shall comply with the requirements found in Article 11, section 2721(b), SWRCB Resolution No. 92-49, and Finding 7 of this Order.

a. Groundwater Cleanup Levels: The dischargers shall cleanup and abate the effects of the discharge in a manner that promotes the attainment of either background groundwater quality or the best water quality which is reasonably attainable if background levels of water quality cannot be restored, considering all demands being made and to be made on those waters and the total values involved, beneficial and detrimental, economic and social, tangible and intangible. Any alternative cleanup levels less stringent than back groundwater quality are subject to Regional Board approval.

b. Soil Cleanup Levels: Residual concentrations of fuel constituents in soils must meet all the following criteria: 1) be low enough so that leachable contaminants will not cause the groundwater cleanup levels to be exceeded at/near the facility; and 2) be protective of human health and the environment. The dischargers shall propose a range of site-specific soil cleanup levels based upon a technical evaluation of risks from residual soil contaminants and analytical results from contaminant leachability tests

performed on an adequate number of significantly contaminated soils samples collected from the facility.

E. IMPLEMENTATION OF CAP: Implement the CAP no later than **60 days** after submission of the CAP to the Regional Board, according to the schedule in D.2.d.

The Dischargers shall propose a method (s) and schedule for the monitoring and reporting of progress of remediation at the facility. These results should be used by the Dischargers to evaluate the effectiveness of the approved corrective action alternative implemented by the Dischargers to remediate the soil and groundwater contamination from the unauthorized release at the facility. The results and the technical evaluation must be reported to the Regional Board Executive Officer for review and comment.

Within **60 days** of completing implementation of the CAP, a technical report shall be submitted to the Regional Board with the results verifying implementation of the preferred remedial alternative(s) and evaluating overall remedial effectiveness of the CAP.

F. VERIFICATION MONITORING: Within 60 days of completion of an adequate CAP, the dischargers shall submit a **workplan** to implement a verification monitoring program that includes a schedule for submitting monitoring reports. The Dischargers shall conduct verification monitoring in conformance with the provisions of section 2727 of CCR Title 23, Chapter 16. The Dischargers shall implement the verification monitoring program within 30 days of submitting the workplan to the Regional Board.

G. DOCUMENT SUBMITTALS: The Dischargers shall submit both one paper and one electronic, searchable PDF copy of all documents required under this Order to:

Executive Officer
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, California 92123-4353
Attn: Craig Carlisle, Groundwater Basins Branch

All correspondence and documents submitted to the Regional Board shall include the following Geotracker Site ID in the header or subject line:

T0607399052

H. ELECTRONIC DATA SUBMITTALS: The Electronic Reporting Regulations (Chapter 30, Division 3 of Title 23 & and Division 3 of Title 27, CCR) require electronic submission of any report or data required by a regulatory agency from a

cleanup site after July 1, 2005. All information submitted to the Regional Board in compliance with this Order is required to be submitted electronically via the Internet into the Geotracker database http://geotracker.waterboards.ca.gov/ (Geotracker Site ID. **T0607399052**). The electronic data shall be uploaded on or prior to the regulatory due dates set forth in the Order or addenda thereto. To comply with these requirements, the Discharger shall upload to the Geotracker database the following minimum information.

1. **Laboratory Analytical Data:** Analytical data (including geochemical data) for all soil, vapor, and water samples in Electronic Data File (EDF) format. Water, soil, and vapor data include analytical results of samples collected from: monitoring wells, boreholes, gas and vapor wells or other collection devices, surface water, groundwater, piezometers, stockpiles, and drinking water wells.

2. **Locational Data:** The latitude and longitude of any permanent monitor well for which data is reported in EDF format, accurate to within 1 meter and referenced to a minimum of two reference points from the California Spatial Reference System (CSRS-H), if available.

3. **Monitoring Well Elevation Data:** The surveyed elevation relative to a geodetic datum of any permanent monitor well. Elevation measurements to the top of groundwater well casings for all groundwater monitoring wells.

4. **Depth-to-Water Data:** Monitoring wells need to have the depth-to-water information reported whenever water data is collected, even if water samples are not actually collected during the sampling event.

5. **Monitoring Well Screen Intervals:** The depth to the top of the screened interval and the length of screened interval for any permanent monitor well.

6. **Site Map:** Site map or maps which display discharge locations,[3] streets bordering the facility, and sampling locations for all soil, water, and vapor samples. The site map is a stand-alone document that may be submitted in various electronic formats.[4] A site map must also be uploaded to show the maximum extent of any groundwater pollution. An updated site map may be submitted at any time.

7. **Boring logs:** Boring logs (in searchable PDF format) prepared by an appropriately licensed professional.

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[3] Former tank(s), product and vapor piping, dispenser locations, or sump locations, and unauthorized discharge or spill areas.

[4] Formats include .gif, .jpeg, .jpg, tiff, .tif, .pdf

8. **Electronic Report:** A complete copy (in searchable PDF format) of all workplans, assessment, cleanup, and monitoring reports including the signed transmittal letters, professional certifications, and all data presented in the reports.

I. **VIOLATION REPORTS:** If the Discharger violates any requirement of this Order, then the Discharger must notify the Regional Board office by telephone as soon as practicable once the Discharger has knowledge of the violation. Regional Board staff may, depending on violation severity, require the Discharger to submit a separate technical report on the violation within five working days of telephone notification.

J. **OTHER REPORTS:** The Discharger must notify the Regional Board in writing prior to any facility activities, such as construction or removal of an underground tank, which have the potential to cause further migration of contaminants or which would provide new opportunities for Site investigation.

PROVISIONS

A. **NO POLLUTION, CONTAMINATION OR NUISANCE:** The storage, handling, treatment, or disposal of soil containing petroleum hydrocarbon waste or polluted ground water must not create conditions of nuisance as defined in Water Code section 13050(m). The Dischargers must properly manage, treat and dispose of wastes and polluted ground water in accordance with applicable federal, state and local regulations.

B. **GOOD OPERATION AND MAINTENANCE:** The Dischargers must maintain in good working order and operate as efficiently as possible any monitoring system, Site or control system installed to achieve compliance with the requirements of this Order.

C. **GROUNDWATER MONITORING PROGRAM:** The Dischargers must comply with the Groundwater Monitoring Program of this Order.

D. **CONTRACTOR/CONSULTANT QUALIFICATIONS:** All reports, plans and documents required under this Order shall be prepared under the direction of appropriately qualified professionals. A statement of qualifications and license numbers, if applicable, of the responsible lead professional and all professionals making significant and/or substantive contributions shall be included in the report submitted by the Dischargers. The lead professional performing engineering and geologic evaluations and judgments shall sign and affix their professional geologist or civil engineering registration stamp to all technical reports, plans or documents submitted the Regional Board.

E. **LABORATORY QUALIFICATIONS:** All samples must be analyzed by California State-certified laboratories using methods approved by the U.S. Environmental Protection Agency (USEPA) for the type of analysis to be performed. All laboratories must maintain quality assurance/quality control (QA/QC) records for Regional Board review. Any report presenting new analytical data is required to include the complete Laboratory Analytical Report(s). The Laboratory Analytical Report(s) must be signed by the laboratory director and contain:

1. a complete sample analytical report,

2. a complete laboratory quality assurance/quality control (QA/QC) report,

3. a discussion of the sample and QA/QC data, and

4. a transmittal letter that shall indicate whether or not all the analytical work was supervised by the director of the laboratory, and contain the following statement, "All analyses were conducted at a laboratory certified for such analyses by the California Department of Health Services in accordance with current USEPA procedures."

F. **REPORTING OF CHANGED OWNER OR OPERATOR:** The Dischargers must notify the Regional Board of any changes in Site occupancy or ownership associated with the property described in this Order.

G. **PENALTY OF PERJURY STATEMENT:** All reports must be signed by the Dischargers' principal executive officer or their duly authorized representative, and must include a statement by the official, under penalty of perjury, that the report is true and correct to the best of the official's knowledge.

H. **REGULATIONS:** All corrective actions must be in accordance with the provisions of CCR Title 23, Chapter 16, and the Cleanup and Abatement Policy in the Water Quality Control Plan for the San Diego Basin (9).

NOTIFICATIONS

A. **COST RECOVERY:** Pursuant to Water Code Section 13304(c), the Regional Board is entitled to, and may seek reimbursement for, all reasonable costs actually incurred by the Regional Board to investigate unauthorized discharges of waste and to oversee cleanup of such waste, abatement of the effects thereof, or other remedial action, required by the Order.

B. **ENFORCEMENT NOTIFICATION:** Failure to comply with requirements of this Order may subject you to enforcement action, including but not limited to: imposition

of administrative civil liability, pursuant to CWC sections 13268 and 13350, in an amount not to exceed $5,000 for each day in which the violation occurs under Water Code sections 13304 or 13350 or referral to the Attorney General to injunctive relief or civil or criminal liability.

C. **REQUESTING EVIDENTIARY HEARING BY THE REGIONAL BOARD:** Any person affected by this action of the Regional Board may request an evidentiary hearing before the Regional Board. The Regional Board's Executive Officer may elect to hold an informal hearing or a "paper hearing" in lieu of scheduling a hearing before the Regional Board itself. If you decide to request an evidentiary hearing, send your request to the Regional Board Executive Officer, Attn: Supervisor Central San Diego County Groundwater Unit, at the address provided on the Order transmittal letter. Please consider the following carefully:

1. The Regional Board must receive your request within 30 days of the date of this Order.

2. Your request must include all comments, technical analysis, documents, reports, and other evidence that you wish to submit for the evidentiary hearing. However, please note that the administrative record will include all materials the Regional Board has previously received regarding this facility. <u>You are not required to submit documents that are already in the record.</u>

3. The Executive Officer or Regional Board may deny your request for a hearing after reviewing the evidence.

4. If you do not request an evidentiary hearing, the State Board may prevent you from submitting new evidence in support of a State Board petition.

5. Your request for an evidentiary hearing, if you submit one, does not stay the effective date of the Order, whether or not a hearing is scheduled.

6. <u>A request for a hearing does not extend the 30-day period to file a petition with the State Board (see below).</u> However, we suggest that you ask the State Board to hold the petition in abeyance while your request for a hearing is pending. (Refer to CCR Title 23 section 2050.5(d)) Additional information regarding the SWRCB petition process is provided below.

D. REQUESTING ADMINISTRATIVE REVIEW BY THE STATE BOARD: Any person affected by this action of the Regional Board may petition the State Board to review the action in accordance with section 13320 of the Water Code and CCR Title 23 section 2050. The petition must be received by the SWRCB (Office of Chief Counsel, P.O. Box 100, Sacramento, California 95812) within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request.

MICHAEL P. McCANN
Assistant Executive Officer

5/11/2009
May 11, 2009

Summary of Required Submittals and Their Due Dates

Directive	Activity	Due Date
B	Interim Remedial Action Response	July 30, 2009
C.1	Site Assessment Workplan	August 30, 2009
C.2	Site Conceptual Model	November 30, 2009
C.3	Site Assessment Report	January 30, 2010
D	Corrective Action Plan	April 30, 2010

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

CLEANUP AND ABATEMENT ORDER R9-2009-0074
GROUNDWATER MONITORING PROGRAM

THE ORANGE GLEN MARKET,
2741 EAST VALLEY PARKWAY,
ESCONDIDO, CALIFORNIA

1. **Authority and Purpose**: The Discharger is directed to submit the technical reports required in this Groundwater Monitoring Program (GMP) pursuant to Water Code section 13267 and 13304. The purpose of the GMP is to document achievement of cleanup levels, and to provide data to answer the following questions.

   a. Are interim remedial actions effective?
   b. Has the lateral and vertical extent of each waste constituent in soil, groundwater, and soil vapor been delineated?
   c. Is the size of the plume of each waste constituent decreasing in size and/or mass?
   d. Has the source of each waste constituent been effectively cleaned up?
   e. Is the selected remedial action alternative effectively removing waste constituents from the soil, groundwater, and soil vapor, and is the alternative capable of achieving the cleanup levels in the CAP?
   f. Have the beneficial uses of the groundwater been restored, and are human health and the environment protected?

2. **Monitoring:** The Discharger must measure ground water elevations quarterly in all monitor wells. Groundwater samples collected from all current groundwater monitor wells shall be collected and analyzed on a quarterly basis using EPA methods 8015 for total petroleum hydrocarbons quantifying gasoline and diesel and EPA method 8260b for the **full scan of volatile organic compounds** including benzene, toluene, ethylbenzene, xylenes, methyl tertiary butyl ether (MTBE), tertiary butyl alcohol (TBA) and all other fuel oxygenates.

   The Discharger must sample any new groundwater monitor or extraction wells quarterly and analyze groundwater samples for fuel related constituents and all volatile organic compounds. The Discharger may provide a written proposal to change the sampling requirements in this Order. Any proposed changes are subject to Regional Board approval.

3. **Quarterly Groundwater Monitoring Reports:** The Discharger must submit quarterly groundwater monitoring reports to the Regional Board commencing **July 30, 2009**. Subsequent reports shall be submitted no later than 30 days following the end of the quarter according to the following schedule:

Monitoring Period	Due Date for Report
First Quarter (Jan-Mar)	Due no later than April 30
Second Quarter (Apr-Jun)	Due no later than July 30
Third Quarter (Jul-Sep)	Due no later than October 30
Fourth Quarter (Oct-Dec)	Due no later than January 30

The quarterly groundwater monitoring reports must include:

a. **Transmittal Letter with Penalty of Perjury Statement.** The transmittal letter must discuss any violations during the reporting period and actions taken or planned to correct the problem. The letter must be signed by the Discharger's principal executive officer or their duly authorized representative, and must include a statement by the official, under penalty of perjury, that the report is true and correct to the best of the official's knowledge.

b. **Groundwater Elevations.** Groundwater elevation data must be presented in tabular format with: depth to ground water (in feet below ground surface), top of casing elevations, depths to the top of well screens, length of well screens and total depth for each well included in the monitoring program. For all wells containing floating "free petroleum product" (A.K.A. light non-aqueous phase liquid or LNAPL) include the measured thickness of LNAPL in a tabular format. A groundwater elevation map must be prepared for each monitored water-bearing zone with the groundwater flow direction and calculated hydrologic gradients(s) clearly indicated in the figures(s). A complete tabulation of historical groundwater elevations must be included in the fourth quarterly report each year.

c. **Reporting Groundwater Results**: All monitoring reports must:

   i. Present all groundwater sampling data in tabular format. Isoconcentration map(s) must be prepared for constituents of concern (COCs) for each monitored water-bearing zone, as appropriate. Time versus concentration plots and distance versus concentration plots that also show groundwater elevations must be prepared for constituents of concern for appropriate wells.

   ii. Provide a Site plot plan which clearly illustrates the locations of monitor wells, former/current underground storage tank systems (and product piping) and buildings located on the property and immediately adjacent to the property lines of the facility.

   iii. Provide a Site plot plan with the most recent concentrations of total petroleum hydrocarbons and volatile aromatic hydrocarbons (*e.g.* benzene, toluene, ethylbenzene, total xylenes, MTBE, TBA and other fuel oxygenates).

iv. The report must provide technical interpretations of the groundwater data, and describe any significant increases in pollutant concentrations since the last report, any measures proposed to address the increases, any changes to the site conceptual model, any conclusions and recommendations for future action with each report.

v. The report must describe analytical methods used, detection limits obtained for each reported constituent, and a summary of QA/QC data.

vi. The report must indicate sample collection protocol(s), describe how investigation derived wastes are managed at the facility, and include documentation of proper disposal of contaminated well purge water and/or soil cuttings removed from the facility.

vii. Historical groundwater sampling results must be listed in tabular form and included in the fourth quarterly report each year.

d. Remediation: If applicable, the report must include soil vapor or groundwater extraction results in tabular form, for each extraction well and for the Site as a whole. The report must also include contaminant removal results, from all extraction wells and from other cleanup and abatement systems (*e.g.* skimmers), expressed in units of chemical mass per day and mass for the quarter. Historical total annual mass removal results must be tabulated in the fourth quarterly report each year.

e. Status Report: The quarterly report must describe relevant work completed during the reporting period (*e.g.* Site investigation, interim remedial measures) and work planned for the following quarter.

4. Record Keeping: The Discharger or their agent must retain data generated for the above reports, including lab results and QA/QC data, for a minimum of six years after origination and must make them available to the Regional Board upon request.

5. Groundwater Monitoring Program (GMP) Revisions: Revisions to the GMP may be ordered by the Regional Board, or at the request of the Discharger. Prior to making GMP revisions, the Regional Board will consider the burden, including costs, of the groundwater monitoring reports relative to the benefits to be obtained from these reports.

MICHAEL P. McCANN
Assistant Executive Office

May 11, 2009

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

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5/11/09
May 11, 2009