

July 25, 2008

Via Facsimile & E-Mail
(916) 341-5199
jbashaw@waterboards.ca.gov

Law Offices of
Hans W. Herb



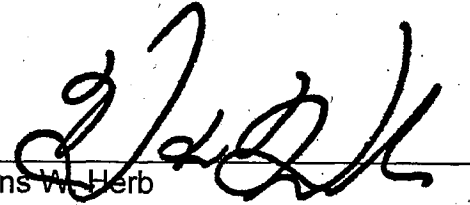
Environmental Law

State Water Resources Control Board
Office of Chief Counsel
Jeannette L. Bashaw, Legal Analyst
P.O. Box 100
Sacramento, CA 95812-0100

**Re: Protective Petition
Cleanup & Abatement Order R3-2008-0053
Vapor Cleaners/951 Del Monte Avenue, Monterey, CA**

- 1 Petitioner: Duke Quinones
Vapor Cleaners, Inc.
PO Box 1534
Monterey, CA 93942-1534
(831) 375-5221
- 2 Action or Inaction of RWQCB: Cleanup & Abatement Order R3-2008-0053
- 3 Date RWQCB Acted: July 1, 2008
- 4 Statement of Reasons Action or Inaction was Inappropriate: This is a protective petition only at this time. Petitioner has petitioned previous versions of this Cleanup & Abatement Order, but has reached an agreement with the RWQCB that Petitioner believes will result in a satisfactory resolution. However, for the purpose of making a record, Petitioner submits this protective petition.
- 5 How Petitioner is Aggrieved: Petitioner has previously explained how he has been aggrieved throughout this process.
- 6 Action Petitioner Requests State Water Board to Take: Petitioner requests this petition be held in abeyance, as Petitioner believes he has reached a satisfactory accord with the applicable RWQCB to achieve mutually satisfactory compliance with the cleanup objectives.
- 7 Statement of Points and Authorities: This is a protective petition only.

- 8 Proof of Service. Proof of service is set forth below.
- 9 Statement of Issues Raised in Petition Presented to RWQCB: This is a protective petition only at this time.



Hans W. Herb
Attorney for Petitioner,
Duke Quinones/Vapor Cleaners

Cc:

REGIONAL WATER QUALITY CONTROL BOARD
Central Coast Region
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401
Via U.S. Mail

Tom Reeves
City Engineer
City of Monterey
reeves@ci.monterey.ca.us
Via E-Mail

Cory Welch
Monterey County Health Department
1270 Natividad Road
Salinas, CA 93906
Via U.S. Mail

Duke Quinones
Vapor Cleaners, Inc.
PO Box 1534
Monterey, CA 93942-1534
Fax: (831) 375-6575
Via Facsimile



California Regional Water Quality Control Board

Central Coast Region



Linda S. Adams
Secretary for
Environmental Protection

Internet Address: <http://www.waterboards.ca.gov/centralcoast/>
895 Aerovista Place, Suite 101, San Luis Obispo, California 93401
Phone (805) 549-3147 • FAX (805) 543-0397

Arnold Schwarzenegger
Governor

July 1, 2008

Mr. Curtis D. Quinones
Vapor Cleaners, Inc.
P. O. Box 1534
Monterey, CA 93942-1534

City of Monterey
Attn: Mr. Fred Meurer
City Hall
Monterey, CA 93940

Dear Responsible Parties:

SITE CLEANUP PROGRAM: FORMER VAPOR CLEANERS, 951 DEL MONTE AVENUE, MONTEREY, MONTEREY COUNTY – TRANSMITTAL OF CLEANUP AND ABATEMENT ORDER NO. R3-2008-0053 (REVISING CLEANUP AND ABATEMENT ORDER NO. R3-2006-0021)

Cleanup and Abatement Order No. R3-2008-0053

Please find Cleanup and Abatement Order No. R3-2008-0053 (hereafter Order) enclosed. This Order revises Cleanup and Abatement Order No. R3-2006-0021 for the former Vapor Cleaners site, and is effective immediately.

Central Coast Regional Water Quality Control Board (Central Coast Water Board) staff reviewed your consultant's, Remediation Testing and Design's (RTD), June 19, 2008 *Comments on Draft Cleanup or Abatement Order No. R3-2008-0053* (Comment Letter). In the Comment Letter, RTD states that they have no objection to the revised due dates outlined in the Central Coast Water Board's Draft Cleanup and Abatement Order No. R3-2008-0053 (Draft Order) sent on June 9, 2008. The Draft Order proposed revised due dates for submission of (1) a site characterization workplan and (2) nearby property owner information from April 24, 2006 to August 8, 2008.

In the Comment Letter, RTD proposes submitting a draft site characterization workplan and draft site conceptual model to Central Coast Water Board staff by July 14, 2008; and RTD proposes discussing these documents with staff during the week of July 21, 2008. Central Coast Water Board staff associated with this project (Karyn Steckling and Thea Tryon) will be unavailable from July 21 to July 29, 2008, for a teleconference. As such, Central Coast Water Board staff revised the due dates for submittal of the site characterization workplan and nearby property owner information in the Order from August 8, 2008 to August 25, 2008 to allow for a teleconference with staff prior to the submittal date. Central Coast Water Board Staff will contact you in early July regarding your availability for a teleconference after July 29, 2008.

California Environmental Protection Agency



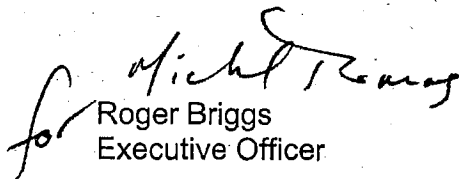
Site Conceptual Model Revision

Additionally in the Comment Letter, RTD proposes revising the site conceptual model for this site based on a new understanding of chlorinated solvent partitioning into light non-aqueous phase liquid petroleum waste. Central Coast Water Board staff reviewed the article mentioned in the Comment Letter, but will reserve comments until staff has had a chance to review the draft site conceptual model. In your revised site conceptual model, please include figures or tables summarizing chlorinated solvent waste distribution in soil and groundwater in support of your understanding of waste transport at this site. Additionally, as you develop the site conceptual model, incorporate historical information regarding MW-1's deformed well screen, as it pertains to contaminant concentration and distribution beneath the site.

Because of the incomplete site characterization status, exposure risks associated with the discharge of solvents remain uncertain. As such, Central Coast Water Board staff will not consider extension requests for implementation of the site characterization workplan and submission of a characterization report. Please keep staff updated on efforts and outcomes associated with your site's reinstatement in the State Water Resources Control Board's UST Cleanup Fund. Based on your progress reports on UST Cleanup Fund reinstatement and findings from the characterization work, Central Coast Water Board staff may consider an extension request for submittal of the feasibility study.

If you have questions, please contact **Karyn Steckling at 805.542.4642** or Thea Tryon at 805.542.4776.

Sincerely,


for Roger Briggs
Executive Officer

S:\Site Cleanup Program\Regulated Sites\Monterey Co\City of Monterey\951 Del Monte - Vapor Cleaner\CAOs\R3-2008-0053\transmittal letter for final Order 0053.doc

Enclosure: Cleanup and Abatement Order No. R3-2008-0053

cc:

Mr. Hans W. Herb, Law Offices of Hans W. Herb
Mr. Howard Whitney, Remediation Testing and Design, Inc.
Mr. Tom Reeves, City of Monterey
Mr. W.E. Reichmuth, City of Monterey Department of Public Works
Mr. Mr. Rick Marvin, City of Monterey Housing and Property Management
Mr. Cory Welch, Monterey County Health Department
Ms. Kathy Thomasberg, Monterey County Water Resources Agency
Ms. Frances McChesney, Office of Chief Counsel, State Water Board (via email)

California Environmental Protection Agency

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION
895 Aerovista Place, Suite 101
San Luis Obispo, California 93401-7906**

**CLEANUP AND ABATEMENT ORDER NO. R3-2008-0053
REVISING CLEANUP AND ABATEMENT ORDER NO. R3-2006-0021**

Issued to

**Vapor Cleaners, Inc.
Mr. Curtis D. Quinones
City of Monterey**

**for
Former Vapor Cleaners
951 Del Monte Avenue, Monterey
Monterey County**

The California Regional Water Quality Control Board, Central Coast Region (hereafter Central Coast Water Board) finds:

1. The Central Coast Water Board issued Cleanup and Abatement Order No. R3-2006-0021 on February 9, 2006 to Vapor Cleaners, Inc.; Mr. Curtis D. Quinones; and the City of Monterey (City). Cleanup and Abatement Order No. R3-2006-0021 requires the dischargers to characterize and evaluate cleanup feasibility for the discharge of waste at this site. This order revises Cleanup and Abatement Order No. R3-2006-0021 to revise due dates for specified tasks.
2. On March 7, 2006, Mr. Quinones and Vapor Cleaners Inc. filed a petition to the State Water Resources Control Board (hereafter State Water Board) in response to Cleanup and Abatement Order No. R3-2006-0021. The petition requested rescission of Cleanup and Abatement Order No. R3-2006-0021, a stay of the requirements while the State Water Board reviewed the petition, and site closure.
3. In response to Mr. Quinones' petition, the State Water Board issued Order WQ 2006-0010. The State Water Board Order WQ 2006-0010 required the Central Coast Water Board to make a determination regarding amending the Basin Plan designation and considering alternatives to cleanup such as institutional controls. Order WQ 2006-0010 required the following regarding compliance dates for Cleanup and Abatement Order No. R3-2006-0021's requirements:

Compliance dates for a workplan for site characterization and submission of a list of property owners within 500 feet of the site are extended until 90 days following any final decision of the Central Coast Water Board on amending

the Basin Plan designation or 90 days following consideration of alternatives such as institutional controls, whichever is later.

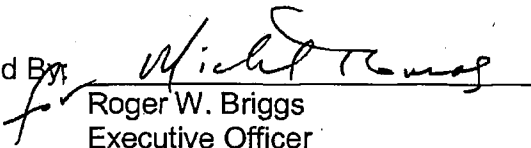
4. At a regularly scheduled meeting on March 21, 2008, the Central Coast Water Board listened to presentations and comments from Central Coast Water Board staff, Mr. Quinones, the City, and other interested parties. After the Central Coast Water Board discussed the options before them, the Board decided to (1) not remove the beneficial use designation at this time, (2) require the dischargers to characterize the extent of chlorinated solvent waste in soil and groundwater, and (3) direct Central Coast Water Board staff and the dischargers to work together to develop a site closure strategy. Therefore, in accordance with Order WQ 2006-0010, the site characterization workplan and nearby property owner information are due June 21, 2008. The Executive Officer determined that this compliance schedule is not reasonable. Therefore, this order revises the required due dates for the site characterization workplan and property owner information as outlined in Ordering Paragraphs 1 and 2 below.
5. This enforcement action is being taken for the protection of the environment and as such is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000, et seq.) in accordance with Sections 15307 and 15308, Chapter 3, Title 14, California Code of Regulations (CCR). The issuance of this Order is also an enforcement action taken by a regulatory agency and is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 21000, et seq.), pursuant to Section 15321(a)(2), Title 14, CCR.

IT IS HEREBY ORDERED, pursuant to Sections 13267 and 13304 of the California Water Code:

1. Cleanup and Abatement Order No. R3-2006-0021 is hereby amended to change paragraph 1 following "IT IS HEREBY ORDERED, ..." as shown below in bold:
*Dischargers shall submit a workplan to completely characterize the extent of chlorinated solvent pollution in soil and groundwater by **August 25, 2008**. Dischargers shall propose soil borings to evaluate the extent of chlorinated solvent pollution remaining in soil not previously investigated (i.e., the northern and southern areas of the property), and groundwater wells to characterize the extent of chlorinated solvents in groundwater. Dischargers shall also install at least two groundwater monitoring wells in the areas between the Property and nearby surface water bodies (between the site and Monterey Bay and between the site and El Estero Lake) to evaluate if chlorinated solvent constituents are discharging into nearby surface water bodies.*
2. Cleanup and Abatement Order No. R3-2006-0021 is hereby amended to change paragraph 2 following "IT IS HEREBY ORDERED, ..." as shown below in bold:
*Dischargers shall submit a list of all property owners within 500 feet of the subject site by **August 25, 2008**.*

3. Cleanup and Abatement Order No. R3-2006-0021, as revised above, remains in full effect.

Ordered By



Roger W. Briggs
Executive Officer

7-1-08
Date