



Dan Skopec
Acting Secretary

California Regional Water Quality Control Board Central Coast Region

Internet Address: <http://www.waterboards.ca.gov/centralcoast>
895 Aerovista Place, Suite 101, San Luis Obispo, California 93401-7906
Phone (805) 549-3147 • FAX (805) 543-0397



Arnold Schwarzenegger
Governor

July 3, 2009

VIA CERTIFIED MAIL

CASTLE VEGTECH, INC.
CASTLE FAMILY TRUST
c/o Ms. Jean Castle
18425 Castle Ridge Drive
Morgan Hill, CA 95037

Certified Mail No. 7008 1140 0003 4708 6953

JAMINA INVESTMENTS
Mr. Michael Castle
Ms. Nancy Buchanan
4575 Crystal Street
Capitola, CA 95010

Certified Mail No. 7008 1140 0003 4708 6960

Mr. James Castle
7491 Crawford Drive
Gilroy, CA 95020

Certified Mail No. 7008 1140 0003 4708 6977

Ms. Nancy Buchanan
1341 39th Street
Sacramento, CA 95816

Certified Mail No. 7008 1140 0003 4708 6984

Castle Vegtech, Inc.
16495 Vineyard Blvd.
Morgan Hill, CA 95037

Certified Mail No. 7008 1140 0003 4708 6991

Jamina Investments
Mr. James Castle
16495 Vineyard Blvd
Morgan Hill, CA 95037

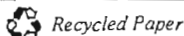
Certified Mail No. 7008 1140 0003 4708 7004

Dear Responsible Parties:

SLIC: FORMER CASTLE VEGTECH SITE, 16495 AND 16470 VINEYARD BOULEVARD, MORGAN HILL, SANTA CLARA COUNTY – ENFORCEMENT AND COLLECTION OF ADMINISTRATIVE CIVIL LIABILITIES

I am writing to you regarding of certain financial liabilities that you have incurred, and to request that you promptly pay the following amounts listed on the next page.

California Environmental Pt



Item No. 6
October 23, 2009 Meeting
Former Castle Vegtech
Settlement Consideration
Attachment 2

ADMINISTRATIVE CIVIL LIABILITY ORDER 94-71

On July 8, 1994, the Regional Water Quality Control Board, Central Coast Region (Water Board) adopted Administrative Civil Liability (ACL) Order No. 94-71 against Castle Vegtech, Inc. and Jamina Investments, imposing civil liability in the amount of \$338,000 for violations of California Water Code Sections 13267 and 13350. The Water Board conditionally suspended the amount pending the completion of three tasks, the last of which stated the Dischargers shall "Expediently complete full remediation of the site to the full satisfaction of the Board." Such a remediation of the site has not occurred. Therefore, you are in violation of the conditions set forth in the suspension of ACL Order No. 94-71. As such, the \$338,000 is due and payable.

1997 SETTLEMENT AGREEMENT

The Water Board filed a lawsuit against the Castle Family (Castle Vegtech Inc, Jamina Investments, James Castle, Michael Castle, and Nancy Buchanan, collectively) to collect administrative civil penalties which were assessed in ACLs 92-78 and 92-83. The parties conditionally settled those claims and deferred collection on those penalties according to a 1997 Settlement Agreement. This letter shall constitute "notice" under Paragraph 2 of the 1997 Settlement Agreement that the cleanup is not proceeding to the Executive Officer's satisfaction. In accordance with the 1997 Settlement Agreement, the amount now due is \$85,000 plus interest at 10% per year from May 8, 1997. The amount due and payable is \$255,766. Pursuant to paragraph 4 of the 1997 Settlement Agreement, these moneys are due within 30 days (by August 3, 2009). Should you believe this Notice is not warranted, your remedies are outlined in paragraphs 5, 6, and 7 of the 1997 Settlement Agreement.

Please submit your check for \$604,766 payable to the "State Water Resources Control Board", note "Castle Vegtech" on the check's memo line, and send it to the Central Coast Water Board at 895 Aerovista Place, Suite 101, San Luis Obispo, CA, 93401, attention Katie DiSimone. *Failure to pay will result in additional formal enforcement or collection action, including the imposition of monetary penalties, a judgment, and attorneys' fees and costs.*

If you have any questions, please contact **Katie DiSimone at 805/542-4638** or Sheila Soderberg at 805/549-3592.

Sincerely,


Roger W. Briggs
Executive Officer

Attachment 1: ACL No. 94-71

Attachment 2: 1997 Settlement Agreement

S:\Site Cleanup Program\REGULATED SITES\Santa Clara Co\Morgan Hill\190 Mast Street - Castle Vegtech\legal\ACLenforcement
july 2009.doc

cc:

PTM Development, LLC
Mr. Alan Hui
3522 Ambra Way
San Jose, CA 95132

Mr. Alan Hui
c/o Mr. Orring Grover, esq.
303 N. 1st St.
Woodburn, OR 97071

Mr. Alan Hui
340 Kimber Terrace
Fremont, CA 94539

Tansy Development, Inc.
Mr. Michael Tansy
1121 Trabing Road
Watsonville, CA 95076

cc via email:

Mr. Steve Golden, steve.golden@morganhill.ca.gov
Ms. Frances McChesney, fmcchesney@waterboards.ca.gov
Mr. Marc Melnick, Marc.Melnick@doj.ca.gov
Mr. Bob Dwyer, bobd@thenicholsonco.com
Mr. Todd Stanley, tstanley@waterboards.ca.gov
Ms. Katie Disimone, kdisimone@waterboards.ca.gov

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD —
CENTRAL COAST REGION

81 HIGUERA STREET, SUITE 200
SAN LUIS OBISPO, CA 93401-5427
(55) 549-3147



July 18, 1994

CERTIFIED MAIL
P 241 242 240

Mr. Thomas Castle
Castle Vegtech, Inc.
P. O. Box 1208
Morgan Hill, CA 95037

CERTIFIED MAIL
P 464 322 668

Jamina Investments
P. O. Box 1730
Morgan Hill, CA 95038

Gentlemen:

Enclosed is a copy of Order No. 94-71, "IN THE MATTER OF CASTLE VEGTECH, INC. AND JAMINA INVESTMENTS, ADMINISTRATIVE CIVIL LIABILITY," which was adopted by this Board on July 8, 1994.

Sincerely,

CALIFORNIA REGIONAL WATER QUALITY
CONTROL BOARD, CENTRAL COAST REGION

By

ROGER W. BRIGGS
Executive Officer

VJ16/sm:Castle.tr

cc:

Mr. James Castle
Jamina Investments
P.O. Box 1730
Morgan Hill, CA

Geo-Strategies
6747 Sierra Court, Suite G
Dublin, CA 94568

Ms. Sharon Kolhmannslehner
Morgan Hill Fire Dept.
18300 Old Monterey Road
Morgan Hill, CA 95037-3013

Ms. Nancy Buchanan
Jamina Investments
P.O. Box 1730
Morgan Hill, CA 95038

Jack Muench
City of Morgan Hill, City Hall
Dept. of Public Works
17555 Peak Avenue
Morgan Hill, CA 95037

Allan R. Saxe
Matteoni, Saxe & Nanda
Kodak Center
1740 Technology Dr.,
Suite 250
San Jose, CA 95110

Mr. Michael Castle
Jamina Investments
P.O. Box 1730
Morgan Hill, CA 95038

Mr. Pieter Crosby
PC Toxic
11846 Clay Station Road
Herald, CA 95638

Tom Boxler
2150 River Plaza Drive,
Suite 350
Sacramento, CA 95833

Ms. Seena Hoose
Santa Clara Valley Water Dist.
5750 Almaden Expressway
San Jose, CA 95118

STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION

IN THE MATTER OF

CASTLE VEGTECH, INC.
and
JAMINA INVESTMENTS

ORDER NO. 94-71
FOR

ADMINISTRATIVE
CIVIL LIABILITY

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

1. Castle Vegtech, Inc. (Castle Vegtech) and Jamina Investments, a General Partnership of James A. Castle, Michael C. Castle, and Nancy Buchanan (Jamina) have violated orders of the Regional Water Quality Control Board, Central Coast Region (Regional Board), for which the Regional Board may impose civil liability under Sections 13268 and 13350 of the California Water Code.
2. Jamina owns property at 190 Mast Street, Morgan Hill (property). Castle Vegtech operated a pesticide and fertilizer formulation, sales and application business at the property. Castle Vegtech and Jamina discharged wastes, which have migrated through soil and have polluted ground water. These wastes include: toxaphene, 1,2-dichloropropane, 1,1,2,2-tetrachloroethane, 1,2-dichloroethane, carbon tetrachloride, DDT, DDD, DDE, and dieldrin in soil and toxaphene, 1,2-dichloropropane, carbon tetrachloride, 1,1,2,2-tetrachloroethane, 1,2-dichloroethane, 1,1,1-trichloroethane, Alpha-BHC, Gamma-BHC, dieldrin, endrin, DDD, and DDT in ground water. Castle Vegtech and Jamina have failed to cleanup these wastes which continue to be discharged through soil and ground water.
3. The Regional Board issued Cleanup or Abatement Order No. 93-111 to Castle Vegtech and Jamina (hereafter Dischargers) on October 8, 1993, pursuant to Water Code Sections 13267 and 13350. The Order required delineation and remediation of degraded soils and ground water.
4. Cleanup or Abatement Order No. 93-111 required, in part, the installation and startup of a remediation system for shallow ground water by **March 1, 1994**; Submittal of a work plan and time schedule for delineating the extent of degradation of the deeper aquifer no later than **April 30, 1994**; submittal of results of a soil bioremediation pilot study by **May 1, 1994**, or an alternate plan for soil remediation (insitu and stockpiled soils) by **May 15, 1994**; and submittal of a quarterly status report by **April 15, 1994**.
5. Dischargers have violated California Water Code Section 13350 by intentionally failing to comply with Cleanup or Abatement Order No. 93-111; specifically, by failing to install and startup a shallow ground water remediation system by **March 1, 1994**. They have violated Section 13267 by failing to submit a workplan for delineating the deeper ground water degradation by **April 30, 1994**; results of a soil bioremediation pilot study by **May 1, 1994** or an alternate plan for soil remediation by **May 15, 1994**; and a quarterly report by **April 15, 1994**.

July 8, 1994

6. The Executive Officer of the Regional Board issued Complaint No. 94-57 on May 16, 1994, pursuant to Section 13323 of the California Water Code for violations of Water Code Sections 13267 and 13350. The complaint proposed imposing an administrative civil liability in the amount of \$125,000.
7. A public hearing was held before the Regional Board on June 3, 1994, in San Luis Obispo, continued to July 8, 1994 in Santa Cruz. The Dischargers' representatives were given an opportunity to be heard and to contest the allegations in Complaint No. 94-57 and imposition of civil liability by the Regional Board.
8. In considering the amount of civil liability imposed pursuant to Section 13268 and 13350 of the California Water Code, the Regional Board considered the nature, circumstances, extent, and gravity of the violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and with respect to the violator, the ability to pay, the effect on its ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic savings, if any, resulting from the violations, and other matters justice may require. In determining the amount of civil liability, the Regional Board considered the "Work Sheet for Assessment of Administrative Civil Liability

insert". The Regional Board also considered all the arguments and evidence presented at the hearings on June 3, 1994 and July 8, 1994 and all other evidence in the Regional Board records.


9. This enforcement action is 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 Section 15321, Chapter 3, Title 14, California Code of Regulations.

IT IS HEREBY ORDERED, pursuant to Sections 13323, 13268 and 13350 of the California Water Code, Castle Vegtech, Inc. and Jamina Investments are assessed a total civil liability of \$338,000, based on consideration of statutory factors in Section 13327 of the California Water Code, to be paid as follows:

1. The sum of \$338,000 is suspended unless the dischargers fail to complete the following tasks:
 - a. Contract for ground water remediation by August 8, 1994, and submit a copy of the executed contract to the Executive Officer by August 12, 1994.
 - b. Start ground water remediation by September 6, 1994, and submit verification to the Executive Officer by September 7, 1994.
 - c. Expeditiously complete full remediation of the site to the satisfaction of the Board.

July 8, 1994

I, **ROGER W. BRIGGS**, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Coast Region, on July 8, 1994:


EXECUTIVE OFFICER

July 8, 1994

Date

VJH6/castle:aci

SETTLEMENT AGREEMENT

This Settlement Agreement is made by and between the Regional Water Quality Control Board for the Central Coast Region ("Regional Water Board") and Castle Vegtech, Inc., Jamina Investments, James A. Castle, Michael C. Castle and Nancy C. Buchanan (collectively, the "Castle Family"). The Regional Water Board has filed a lawsuit (Santa Clara County Superior Court No. CV762555) against the Castle Family to collect certain administrative civil penalties which were assessed against Castle Vegtech, Inc. and Jamina Investments in Administrative Civil Liability Orders 92-78 and 92-83. The parties wish to settle these claims and defer collection of those penalties on the condition that the cleanup occurring at 190 Mast Street, Morgan Hill, California, (the "Property") continues and is completed according to schedule.

1. The Regional Water Board shall dismiss, with prejudice, action no. CV762555 filed in the Santa Clara County Superior Court.
2. Castle Vegtech, Inc., Jamina Investments, James A. Castle, Michael C. Castle and Nancy C. Buchanan shall pay the amounts specified in paragraph 8 if the Executive Officer of the Regional Water Board notifies the Castle Family that he has found that the cleanup at the Property either is not proceeding in accordance with the requirements and time schedules in Cleanup or Abatement Order No. 96-063, or any amendment of Order No. 96-063, or any then current cleanup order(s) issued by the Regional Water Board, or is not proceeding to the Executive Officer's satisfaction.
3. The notice specified in paragraph 2 (the "Notice") shall be made by letter sent certified first class mail, with return receipt requested, to the addresses listed in paragraph 10.

4. The amount due under paragraph 2 shall be due within 30 days of the mailing of the Notice.

5. If the Castle Family believes that the Executive Officer, in sending out the Notice, has abused his discretion, the Castle Family may request that the Regional Water Board review the Executive Officer's decision. Such a request must be made within 20 calendar days from the mailing of the Notice, and must be sent certified first class mail, with return receipt requested, to the address listed in paragraph 9. This request shall be heard at the next available scheduled public meeting of the Regional Water Board which is sufficiently in the future to allow the Regional Water Board to review the request. This request shall be the only method for appealing the Executive Officer's determination to the Regional Water Board. The Castle Family may take whatever action is legally available to challenge this determination by the Regional Water Board.

6. If it is ^{ultimately} ~~determined~~ that the Executive Officer was correct in his determination, the amount due shall be due immediately. If it is determined that the Executive Officer was incorrect in his determination, this agreement shall proceed as if the Executive Officer had not sent the Notice.

7. If the Castle Family believes that the cleanup at the Property has been completed, the Castle Family may send a request to the Regional Water Board for confirmation that the cleanup has been completed. The Regional Water Board shall respond within thirty (30) days from receipt of the request. If the Regional Water Board responds that the cleanup is complete, the Castle Family's obligations under this agreement shall be discharged and this agreement shall terminate.

8. The amount due shall be Eighty-Five Thousand Dollars Exactly (\$85,000.00), plus interest. This interest shall accrue at 10% per year from May 8, 1997 to the date of the Notice. Liability shall be joint and several, with the following limitations. Castle Vegtech, Inc.'s liability under this agreement shall not exceed \$80,000., plus proportionate interest on that amount. The liability of Jamina Investments, James A. Castle, Michael C. Castle and Nancy C. Buchanan (in total) shall not exceed \$45,000., plus proportionate interest on that amount. If the City of Morgan Hill forecloses on the Property (to collect the property assessments currently due on the Property) before the Notice is sent and before December 1, 1998, and the Castle Family realizes less than \$350,000. from that foreclosure proceeding, then the liability of Jamina Investments, James A. Castle, Michael C. Castle and Nancy C. Buchanan (in total) shall not exceed \$5,000., plus proportionate interest on that amount.

9. Notices to the Regional Water Board shall be made to the following address:

Mr. Vernon Jones
Regional Water Quality Control Board
81 Higeuroa Street
San Luis Obispo, CA 93401

10. Notices to the Castle Family shall be made to the following addresses:

Castle Vegtech, Inc.
16495 Vineyard Boulevard, SUITE D
Morgan Hill, CA 95037

Jamina Investments
16495 Vineyard Boulevard, SUITE A
Morgan Hill, CA 95037

James A. Castle
c/o Jamina Investments
16495 Vineyard Boulevard, SUITE A
Morgan Hill, CA 95037

Nancy Buchanan
1341 39th Street
Sacramento, CA 95816

Michael Castle
4575 Crystal Street
Capitola, CA 95010

11. The parties shall notify each other if any of the addresses listed in paragraphs 9 or 10 change; this notification shall be made by letter sent certified first class mail, with return receipt requested.

12. If the amount due under this agreement becomes due, the Regional Water Board may take any steps legally available, including the filing of a lawsuit, to collect that amount due. However, the Regional Water Board may not enforce this agreement, or any judgment received under it, against the primary personal residence of James A. Castle, Michael C. Castle or Nancy Buchanan.

13. In any proceeding in any court of law by which a party seeks to enforce its rights under this agreement, the prevailing party shall be awarded reasonable attorneys' fees, together with any costs or expenses, to resolve the dispute.

14. This agreement contains the entire agreement between the parties concerning Administrative Civil Liability Orders 92-78 and 92-83.

15. The parties understand that there are other Regional Water Board orders outstanding regarding the Property and the Castle Family. This agreement does not affect those other orders in any way.

16. Neither this agreement, nor any term or provision thereof, may be amended except by written agreement signed by all parties.

17. The Executive Officer may waive non-compliance of Cleanup or Abatement Order No. 96-063, or any amendment of Order No. 96-063, or any then current cleanup order(s) issued by the Regional Water Board, for delays beyond the reasonable control of the Castle Family. Any such waiver shall not be considered or deemed a waiver for any other time or for any other occasion.

18. It is agreed between the parties that this agreement was jointly negotiated and jointly drafted by the parties and their respective attorneys, if any, and that it shall not be interpreted or construed in favor or against any party on the ground that said party drafted the agreement.

19. This agreement shall be binding on and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and/or assigns.

20. The parties have had the opportunity to consult with their respective attorneys regarding this agreement and the meaning of its provisions, and knowingly and freely enter into its terms.

21. Any party signing this agreement on behalf of an entity other than themselves hereby represents that such party has such authority to sign on behalf of the indicated entity.

22. The parties will each bear their own costs and attorneys' fees incurred in this case.

23. This agreement may be signed in counterparts.

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Agreed to and accepted:

Regional Water Quality Control Board for
the Central Coast Region

DATED: 6-30-97

Roger W. Briggs
[Signature]
Printed Name: Roger W. Briggs
Its: Executive Officer

Castle Vegtech, Inc.

DATED:

[Signature]
Printed Name: _____
Its: _____

Jamina Investments

DATED:

[Signature]
Printed Name: _____
Its: _____

DATED:

James A. Castle

DATED:

Michael C. Castle

DATED:

Nancy C. Buchanan

Agreed to and accepted:

Regional Water Quality Control Board for
the Central Coast Region

DATED: 6-27-97

Jean M. Castle
[Signature]
Printed Name: JEAN M. CASTLE
Its: Secretary

Castle Vegtech, Inc.

DATED:

[Signature]
Printed Name: _____
Its: _____

Jamina Investments

DATED:

[Signature]
Printed Name: _____
Its: _____

DATED:

James A. Castle

DATED:

Michael C. Castle

DATED:

Nancy C. Buchanan

Agreed to and accepted:

Regional Water Quality Control Board for
the Central Coast Region

DATED:

[Signature]
Printed Name: _____
Its: _____

Castle Vegtech, Inc.

DATED: 6-27-96

Jean W. Castle

[Signature]
Printed Name: JEAN W. CASTLE
Its: Secretary

Jamina Investments

DATED:

[Signature]
Printed Name: _____
Its: _____

DATED:

James A. Castle

DATED:

Michael C. Castle

DATED:

Nancy C. Buchanan

Agreed to and accepted:

Regional Water Quality Control Board for
the Central Coast Region

DATED:

[Signature]
Printed Name: _____
Its: _____

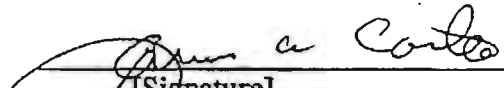
Castle Vegtech, Inc.

DATED:

[Signature]
Printed Name: _____
Its: _____

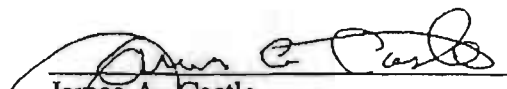
Jamina Investments

DATED: June 26, 1997



[Signature]
Printed Name: JAMES A. CASTLE
Its: PARTNER

DATED: June 26, 1997



James A. Castle

DATED:

Michael C. Castle

DATED:

Nancy C. Buchanan

Agreed to and accepted:

Regional Water Quality Control Board for
the Central Coast Region

DATED:

[Signature]
Printed Name: _____
Its: _____

Castle Vegtech, Inc.

DATED:

[Signature]
Printed Name: _____
Its: _____

Jamina Investments

DATED:

[Signature]
Printed Name: _____
Its: _____

DATED:

James A. Castle

DATED:

Michael C. Castle

DATED: *June 25, 1997*

Nancy C. Buchanan

Nancy C. Buchanan

Agreed to and accepted:

Regional Water Quality Control Board for
the Central Coast Region

DATED:

[Signature]
Printed Name: _____
Its: _____

Castle Vegtech, Inc.

DATED:

[Signature]
Printed Name: _____
Its: _____

Jamina Investments

DATED:

JAMINA INVESTMENTS
[Signature]
Printed Name: _____
Its: _____

DATED:

James A. Castle

DATED: 8/1/97

Michael C. Castle
Michael C. Castle

DATED: June 25, 1997

Nancy C. Buchanan
Nancy C. Buchanan