INTRODUCTION:

In item no. XXX, the California Regional Water Quality Control Board, Los Angeles Region (Regional Water Board) staff presents Resolution No. R19-XXX, for the Regional Water Board’s consideration, referring Leach Oil Company, Inc. (LOC), Patricia Leach, and Leach Property Management (collectively, LOC Responsible Parties), and referring Rev 973, LLC (Rev), Mouren-Laurens Oil Company (MLOC), Estate of Joseph Mouren-Laurens, Estate of Emma Mouren-Laurens, John Mouren-Laurens and Mireille Mouren-Laurens (collectively, MLOC Responsible Parties) to the Office of the Attorney General for failure to comply with the requirements set forth in Cleanup and Abatement Order Nos. R4-2014-0117 (MLOC CAO) and R4-2014-0118 (LOC CAO) (collectively, CAOs). Specifically, the MLOC and LOC Responsible Parties, have, to date, failed to comply with the CAOs’ requirements regarding investigation, cleanup, remediation and abatement of soil, soil vapor, and groundwater contamination at, and from, the real properties commonly known as 625 East Compton Boulevard and 15006 South Avalon Boulevard (LOC Site) and 641, 705, 717, and 719 East Compton Boulevard (MLOC Site) (collectively, Sites). The Sites are located in an unincorporated portion of Los Angeles County formerly known as West Compton and currently known as West Rancho Dominguez, California. The LOC and MLOC Sites should be considered together for the legal and technical reasons set forth below.

Resolution No. R19-XXX requests that the Attorney General seek injunctive relief, bring other applicable causes of action, and/or seek judicially imposed civil liabilities under California Water Code sections 13304 and 13350, as appropriate, against the MLOC and LOC Responsible Parties. Due to the significance of the issues explained in detail below, Regional Water Board staff contends that these matters warrant referral to the Office of the Attorney General.

BACKGROUND:

A. Location and Historical Operations at the Sites

The MLOC Site is immediately east of the LOC Site. The Sites have a similar operational history with some overlap in ownership. Operations at both Sites resulted in the discharge of petroleum
hydrocarbons, volatile organic compounds (VOCs), semi-VOCs and other waste to the ground and the waters of the State in violation of the Water Code. Both Sites pose a threat to human health and the environment because of the concentrations of various chemicals in soil, soil vapor, and groundwater.

The Sites are located in an unincorporated area of Los Angeles County called West Rancho Dominguez. The area is currently zoned as light manufacturing (M-1). Despite this, however, there are residences and schools near the Sites. For example, there is a mobile home park on the south side of East Compton Boulevard (across from the Sites); a middle school approximately 200 feet east of the Sites; another middle school approximately a quarter of a mile to the southeast; a pre-school approximately 600 feet to the south of the Sites, and an elementary school approximately 0.8 miles south of the Sites. Neighborhoods are located within half a mile to the northeast, east, southeast, south, and southwest from the Sites. In fact, according to the Disadvantaged Community Mapping Tool (available at https://gis.water.ca.gov/app/dacs/), the Sites are within a “Disadvantaged Community.” Similarly, according to CalEnviroScreen 3.0 (available as a spreadsheet at https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-30), the Sites are located within Census Tract 6037541100 which is classified as one of the California communities most disproportionately burdened by, and vulnerable to, multiple sources of pollution. Only 3% of California communities have a worse ranking on CalEnviroScreen 3.0 than the community where the Sites are located.

The MLOC Site is approximately 170,000 square feet in area and consists of four separate addresses. The MLOC Site was the location of an active oil production well until 1955, when Joseph Mouren-Laurens purchased the MLOC Site and relocated MLOC’s operations there between 1955 and 1958. His wife, Emma Mouren-Laurens, was co-owner of the MLOC Site. In 1979, his son John Mouren-Laurens, along with his wife Mireille Mouren-Laurens, became owners of the MLOC Site and operated there until 1998. In 1998, the MLOC Site was acquired by Rev. Aboveground storage tanks (ASTs) and associated piping were demolished and removed by Rev.

MLOC was engaged in blending and packaging of both new and recycled/refined/reclaimed motor oils, transmission oils, and antifreeze for retail. Tanker trucks from oil refineries delivered both new and recycled/refined/reclaimed motor oil to the ASTs. From these ASTs, oil was piped into a plant where it was blended and
packaged for retail. In addition, one underground pipeline transferred recycled/refined/reclaimed oil from the adjacent LOC Site to the ASTs located in the northern portion of the MLOC Site. Operations at the MLOC Site also included various phases of receiving, processing, and packaging of chemicals. Based on available information, the usage, storage, and transfer of chemicals and/or hazardous materials at the MLOC Site, at a minimum, included: crude oil, processed oil (motor oil, transmission oil), solvents, antifreeze, resins, urethane and household cleaning agents.

In the 1950s, Joseph Mouren-Laurens partially owned and operated a waste oil refinery at the LOC Site. In May 1960, Joseph Mouren-Laurens acquired Telovis Oil Company (Telovis) and operated it at the LOC Site. In 1966, George Leach acquired Telovis and renamed it LOC.

The LOC Site has been used for various phases of receiving and processing waste oil into usable oil products, and packaging of waste oil since the 1950s. The process of oil reclamation included the use of one or more boiler units and a reclamation pond, and it involved application of concentrated acids. The operations conducted at the LOC Site included various methods to store and process hazardous waste, which included storage tanks, skim ponds, and pipelines. An underground pipeline extended from the LOC Site to the adjacent MLOC Site and was used for transferring waste oil. Sometime in the 1960s, George Leach severed the pipeline. Thereafter, re-refined lubricating oil was shipped out of the facility in tanker trucks or was blended, canned, and resold in cases and drums. Previous operations were phased out beginning in the late 1970s or early 1980s. In the mid-1980s, an attempt was made using a thermal process to convert the oil to fuel-grade oil, but was discontinued within a year because it was not profitable. Patricia Leach owned and operated the LOC Site starting in 1985. Although LOC ceased hazardous waste transfer and storage operations in 1998, it is believed that she remains the owner of the LOC Site.

The MLOC and LOC Responsible Parties have caused or permitted petroleum hydrocarbons, VOCs, semi-VOCs, and other wastes to be discharged into the waters of the State. This discharge has created a condition of pollution and nuisance, and it poses a human health threat to occupants of the buildings on and off the Sites through both direct exposure to contaminated soil and through the intrusion of vapors into indoor air from the subsurface.
B. Discharges at the Sites

Data collected since 1988 from environmental investigations conducted at the Sites indicate that waste discharges occurred during industrial operations. The soil and groundwater beneath the Sites are impacted with various chemicals including, but not limited to, total petroleum hydrocarbons, acetone, toluene, total xylenes, benzene, ethylbenzene, isopropyl alcohol, 2-butanol (MEK), tetrachloroethylene (PCE), trichloroethylene (TCE), 1,1-dichloroethene (1,1-DCE), 1,1,1-trichloroethane (TCA), vinyl chloride, and 1,4-dioxane. Chemicals found in the soil at the Sites have also been detected in the underlying groundwater, indicating that the Sites are the source of groundwater pollution. Likewise, VOCs detected in soil vapor were also found to be present in soil at the Sites.

Based on the investigations described above, waste from the Sites have impacted soil and groundwater. VOC vapors in soil gas have likely migrated offsite, potentially affecting neighboring properties including residences and schools. Contaminated groundwater has also migrated downgradient and offsite. To date, however, the soil gas and groundwater plumes have not been completely delineated. Additional sampling at offsite locations is needed to delineate the extent of the plumes.

C. Regulatory History of the Sites

The Regional Water Board has provided regulatory oversight for the MLOC Site since 1987. Cleanup and Abatement Order No. 87-38 (1987 CAO) was issued on November 20, 1987 to MLOC and its president Mr. John P. Mouren-Laurens for cleanup of the wastes discharged to soil and groundwater at the MLOC Site. By the late 2000s, parties associated with the MLOC and LOC Sites were involved in litigation (Litigation) and it appeared that a settlement involving the assessment and cleanup at the two properties would not happen in a timely manner.

In response to the discovery of additional responsible parties and analysis of the wastes following the 1987 CAO, coupled with the lack of an agreement among the responsible parties to address the contamination, the Regional Water Board issued the LOC CAO on September 17, 2014, and the MLOC CAO on September 19, 2014. The CAOs required the MLOC and LOC Responsible Parties to assess, cleanup, and abate the waste discharged at the Sites.
The CAOs required the MLOC and LOC Responsible Parties to submit technical reports to the Regional Water Board. Among the requirements, a Phase I environmental assessment report, a Site Assessment Work Plan, and a Groundwater Sampling and Monitoring Plan were due to the Regional Water Board by December 30, 2014. Technical reports were required by the CAO to adequately investigate the wastes that originated from the Sites as a necessary step to conduct the cleanup of such wastes.

To date, the MLOC and LOC Responsible Parties repeatedly failed to comply with the CAOs. While the parties submitted a Work Plan for Additional Site Characterization dated April 3, 2015, which was approved by the Regional Water Board on September 14, 2015, it was never implemented. Additionally, the MLOC and LOC Responsible Parties have not submitted any of the other required technical and monitoring documents. These technical reports are essential to assess and delineate the onsite and offsite contamination and evaluate the cleanup of wastes in soil and groundwater.

On May 3, 2016, the Regional Water Board issued notices of violation (NOVs) to the MLOC and LOC Responsible Parties for failure to comply with the requirements of the CAOs. No additional NOVs were issued to, and no other progressive enforcement actions have been brought against the MLOC and LOC Responsible Parties, between May 2016 and the present. This is in large part due to the Litigation filed by Rev under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), and the Regional Water Board’s participation in the attempts to settle the Litigation and remediate the Sites, as described below in Section D.

Regional Water Board staff has continued to make efforts to negotiate a resolution with the MLOC and LOC Responsible Parties after issuance of the CAOs. However, because little progress has been made to comply with the CAOs, Regional Water Board staff has little choice but to recommend referral of the matter to the Office of the Attorney General to protect the interests of the public. This referral is especially needed given the threat posed to the surrounding Disadvantaged Community.

D. Litigation and Settlement Efforts

In 1998, ownership of the MLOC Site was transferred to Rev. Almost immediately, Rev brought the Litigation in Los Angeles Superior Court against former owners and/or operators of the MLOC Site related to contamination at the MLOC Site. Shortly thereafter, certain
former owners and/or operators of the MLOC Site cross-complained against the LOC Responsible Parties, and the Litigation was removed to the federal court in Los Angeles, where it remains pending. For a time, thousands of potentially responsible parties (PRPs) were named as defendants in the Litigation, and hundreds of the PRPs had been served with the complaint. However, in 2018 Rev dismissed the claims against the PRPs, leaving only the claims against certain former owners and/or operators of the MLOC Site and LOC Site.

In 2016, Rev filed a motion seeking the federal court’s approval of a proposed settlement reached by Rev, MLOC, John Mouren-Laurens, and Mireille Mouren-Laurens. Generally, the settlement involved payment of approximately $16 million to Rev in exchange for a “bar order” from the court that would protect MLOC, John Mouren-Laurens, Mireille Mouren-Laurens (and their insurers) from claims made by other parties relating to the contamination. However, the court rejected the request to approve the settlement, citing “insufficient assurances that the settlement proceeds will be used for recoverable costs under CERCLA” and the overbreadth of the proposed bar order. Without court approval, the settlement was not finalized.

Since approximately 2017, Regional Water Board representatives have attended meetings with a mediator attempting to resolve the Litigation and bring the MLOC and LOC Responsible Parties into compliance with the CAOs. Although the Regional Water Board is not named in the Litigation, Regional Water Board representatives, including from the Office of Enforcement, participated in such settlement discussions. No settlement has been reached, although the Regional Water Board’s attorneys continue to engage in settlement discussions. The Litigation is currently set for trial starting on September 1, 2020. In the meantime, however, the LOC and the MLOC Sites are not being cleaned up, no one is complying with the CAOs, and vulnerable, disadvantaged communities are at risk.

OPTIONS:

All other enforcement options have been considered. The Regional Water Board could pursue administrative enforcement via issuance of Time Schedule Orders under California Water Code section 13308 or issuance of Administrative Civil Liability (ACL) complaints assessing monetary liability for failure to comply with the CAOs. However, there are multiple factors that support referring enforcement of the CAOs to the Office of the Attorney General: (1) the long history of non-compliance with the CAOs; (2)
the non-compliance with the CAOs appears to be exacerbated by the positions taken by the parties in the Litigation; (3) the complex and interconnected history of the LOC and MLOC Sites; (4) insurance coverage issues; and (5) the likelihood that enforcement through the civil judicial process will expedite relief for the disadvantaged community surrounding the LOC and MLOC Sites. Administrative enforcement, including ACL orders assessing only monetary penalties, may not be the best and most direct remedy to remediate the contaminated LOC and MLOC Sites. For these reasons, referral to the Office of the Attorney General is the most prudent option.

Given the multiple significant issues involved in this case, referral to the Office of the Attorney General will allow the Regional Water Board to better focus on and ensure investigation and cleanup of the Sites than would otherwise be allowed if the Regional Water Board pursued another administrative enforcement action. In particular, the ability to impose injunctive relief and/or obtain a consent judgment, bring other applicable causes of action, and/or judicially impose civil liabilities would allow the Regional Water Board, through the Office of the Attorney General, to place the MLOC and LOC Responsible Parties under a judicially enforceable timeline to perform the needed investigation and cleanup of the contaminated Sites.

RECOMMENDATION:

Regional Water Board staff recommends that the Regional Water Board adopt the Resolution referring the CAOs to the Office of the Attorney General for judicial civil enforcement.