

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION**

RESOLUTION NO. R21-XXXX

**AUTHORIZING REFERRAL OF CLEANUP AND ABATEMENT ORDER
NO. R4-2010-0095 TO
THE OFFICE OF THE ATTORNEY GENERAL
FOR JUDICIAL CIVIL ENFORCEMENT**

- A. WHEREAS, Rafiel Shahbazian and Mitchell Investors, LLC (collectively, Shahbazian Responsible Parties) are the current owners and/or operators at the property located at 7702 South Maie Avenue, Los Angeles, California (Site).
- B. WHEREAS, Edward Waymire and Waymire Drum Company (collectively, Waymire Responsible Parties) operated a steel drum recycling operation at the Site from 1975 until September 1996 and used the property for empty drum storage until 2003.
- C. WHEREAS, the Site is in a mixed industrial, commercial, and residential area of unincorporated Los Angeles County known as Florence-Firestone (also known as Florence-Graham), within one mile of public parks, schools, and homes. According to the Disadvantaged Community Mapping Tool (available at <https://gis.water.ca.gov/app/dacs/>), the Site is within a "Disadvantaged Community." Similarly, according to CalEnviroScreen 3.0 (available as a spreadsheet at <https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-30>), the Site is located within Census Tract 6037535002, which is classified as one of the California communities most disproportionately burdened by, and vulnerable to, multiple sources of pollution. Only 4.5% of California communities have a worse ranking on CalEnviroScreen 3.0 than the Site.
- D. WHEREAS, the Site has been used for drum recycling operations and storage. The drum recycling operation included cleaning and reconditioning of steel and plastic drums. The cleaning and reconditioning processes involved hot caustic flushing, fresh water rinsing, tank bottom waste processing, hot air drying, acid rinsing to remove rust, fresh water re-flushing, pressure testing of cleaned drums, steel pellet blasting to remove old paint, and repainting with fresh paint since the 1920s. Chemicals used and stored at the Site include: muriatic acid, caustic sodium hydroxide, sodium nitrate, volatile organic compound (VOC)-based paint, wash solvent (toluene), paint waste (paint, lacquer, thinner), and sulfuric acid.
- E. WHEREAS, drum recycling operations at the Site continued until September 1996. The Site was then used for storage of empty drums until 2003.
- F. WHEREAS, the Site has been used as an auto reconditioning and salvaging facility since 2003. Dismantled auto parts, including oil filters, batteries, tires, engine blocks, and radiators are stored at the Site. Typical chemicals and wastes generated during auto dismantling operations include: automotive oil (motor oil,

transmission fluid, power steering fluid, and brake fluid), used oil filters containing heavy metals and residual oil contained in the filters, antifreeze, fluids contained in lead-acid batteries, freon and other refrigerants, solvent, residual gasoline and diesel fuel, and paint.

- G. WHEREAS, the Los Angeles Regional Water Quality Control Board (Regional Water Board) is a state agency whose primary authority under the Porter-Cologne Water Quality Control Act (California Water Code § 13000 et seq.) is regulating, enforcing, and ensuring the quality of the waters of the State.
- H. WHEREAS, the Regional Water Board has reviewed and evaluated technical reports and assessments pertaining to the discharge, detection and distribution of wastes at the Site and its vicinity and concluded that the Site has elevated concentrations of VOCs (including, but not limited to, trichloroethylene (TCE) and perchloroethylene (PCE)), semi-VOCs (including, but not limited to, naphthalene and phenanthrene), heavy metals (including, but not limited to, arsenic, chromium, and lead), and petroleum hydrocarbons, among other wastes, in the soil, soil vapor, and/or groundwater. The presence of contamination in soil constitutes a continuous source of discharges of waste to groundwater. The migration of VOCs through soil vapor may pose a threat to human health.
- I. WHEREAS, the discharges of waste have adversely impacted waters of the State. The Site is located in the Central Basin of the Los Angeles County Coastal Plain. The beneficial uses designated in the Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties for groundwater include Municipal and Domestic Drinking Water Supply, Industrial Service Supply, Industrial Process Supply, and Agricultural Supply.
- J. WHEREAS, the Regional Water Board issued a California Water Code section 13267 Order (13267 Order) to the Shahbazian Responsible Parties on May 16, 2008, directing them to continue and complete the site assessment and groundwater monitoring at the Site. On October 1, 2008, the Regional Water Board issued a Notice of Violation (NOV) to the Shahbazian Responsible Parties for failure to comply with the 13267 Order. The Regional Water Board also issued a 13267 Order to the Waymire Responsible Parties on December 10, 2008, directing them to continue and complete the site assessment and groundwater monitoring at the Site. To date, the Shahbazian and Waymire Responsible Parties have not complied with the 13267 Orders.
- K. WHEREAS, the Regional Water Board issued Cleanup and Abatement Order No. R4-2010-0095 (CAO) to the Shahbazian and Waymire Responsible Parties on July 22, 2010, directing them to assess, monitor, cleanup, and abate the effects of contaminants discharged to the soil, soil vapor, and groundwater at the Site. Pursuant to the time schedule set forth in the CAO, the CAO required the Shahbazian and Waymire Responsible Parties to: (1) prepare a work plan to conduct a comprehensive site assessment, including assessment and delineation of contamination in the soil matrix, soil vapor and groundwater onsite

and offsite; (2) develop a conceptual site model (CSM) based on data collected from the Site; (3) resume the quarterly groundwater monitoring program and submit quarterly groundwater monitoring reports; (4) submit copies of documents previously requested by the Regional Water Board, including a list of businesses from whom used drums were purchased during past drum recycling operations, copies of all hazardous and non-hazardous waste disposal manifests for wastes removed from the site, underground storage tank (UST) operating permits and UST closure permits obtained from pertinent regulatory agencies; and (5) conduct remedial action by developing and submitting a remedial action plan (RAP) to cleanup and abate the effects of soil, soil vapor, and groundwater contamination.

- L. WHEREAS, on December 2, 2010, an NOV was sent to the Shahbazian and Waymire Responsible Parties for their failure to comply with the CAO. The Shahbazian and Waymire Responsible Parties did not comply with the CAO after the issuance of the NOV. Multiple records of communication were made between 2010 and 2011, documenting Regional Water Board staff's subsequent effort to address the continual non-compliance with the CAO by Edward Waymire and Rafiel Shahbazian.
- M. WHEREAS, on June 22, 2012, the Regional Water Board issued Administrative Civil Liability Complaint No. R4-2012-0110 (2012 ACLC) against Edward Waymire, Waymire Drum Company, Rafiel Shahbazian, and Mitchell Investors, LLC for failure to comply with the CAO. A Hearing Panel of the Regional Water Board heard the matter on September 20, 2012. On February 7, 2013, the Regional Water Board approved the Hearing Panel's recommendation and imposed \$107,818 in administrative civil liability for failing to comply with the CAO. To date, payment has not been received and the Shahbazian and Waymire Responsible Parties have failed to comply with the CAO.
- N. WHEREAS, in 2019, the United States Environmental Protection Agency (U.S. EPA) investigated the source of contamination, including lead and TCE found in drinking water production wells near the Site. As part of that investigation, the U.S. EPA collected indoor air and crawl space air samples at residential and commercial locations near the Site. TCE was detected at levels above the U.S. EPA's Regional Screening Level (RSLs) at multiple residential and commercial locations. The U.S. EPA alerted occupants of these buildings and, beginning in June 2019 as an emergency response, the U.S. EPA installed vapor intrusion mitigation systems in those residential homes and commercial buildings to prevent continued exposure of the residents and occupants of the commercial buildings to elevated levels of TCE vapors. The U.S. EPA's emergency response actions are scheduled to end within the coming months. There are currently no plans by the Shahbazian and Waymire Responsible Parties to remediate the Site or to continue the operation and maintenance of the vapor intrusion mitigating systems.

- O. WHEREAS, in response to learning of the levels of TCE in indoor air at buildings overlying the contamination, the Regional Water Board issued a Proposition 65 notification for the Site on July 19, 2019, to the Los Angeles County Department of Public Health and the Los Angeles County Board of Supervisors, Second District.
- P. WHEREAS, due to the lack of response from the Responsible Parties, the Regional Water Board applied for site investigation funds through the State Water Resources Control Board (SWRCB), Division of Financial Assistance Site Cleanup Subaccount Program (SCAP). Funding was approved on August 24, 2018. Using the SCAP funding, the SWRCB contracted with APTIM Environmental to conduct an investigation at the Site, including the collection of soil, soil vapor, and groundwater samples, to further characterize the vertical and lateral extent of the on-site and off-site VOC contamination. The investigation is ongoing and additional on-site and off-site assessments are required. Currently, approximately \$247,226 remains available, out of the initially awarded SCAP funding amount of \$756,452, for APTIM to perform the additional investigative work.
- Q. WHEREAS, on September 25, 2020, the Regional Water Board issued an NOV to the Shahbazian Responsible Parties for their continual failure to comply with the CAO. Subsequently, Regional Water Board staff were contacted by the Shahbazian Responsible Parties and participated in a teleconference with Rafiel Shahbazian on November 19, 2020. During the teleconference, Regional Water Board staff discussed the Shahbazian Responsible Parties' ongoing failure to comply with the CAO and to pay the penalties resulting from the 2012 ACLC. Regional Water Board staff also reiterated the urgency and the need for cleanup actions at the Site and compliance with the CAO due to the potential human health risks, contaminated groundwater, vapor intrusion, and the unknown delineation of the plume associated with the Site. Rafiel Shahbazian repeatedly stated that he could not afford to clean up the Site; however, by the end of the teleconference, Rafiel Shahbazian stated that he would speak to a consultant and get back to Regional Water Board staff by January 2021. To date, the Shahbazian Responsible Parties have not contacted the Regional Water Board.
- R. WHEREAS, Water Code section 13268 specifies potential consequences for failure to submit reports as required by subdivision (b) of section 13267.
- S. WHEREAS, Water Code section 13304, subdivision (a), allows the Regional Water Board to request that the Office of the Attorney General petition the superior court to issue an injunction to compel responsible parties to comply with an order issued pursuant to Water Code section 13304.
- T. WHEREAS, Water Code section 13340 allows a regional water board to request the Attorney General to petition the superior court to enjoin a discharge when the regional water board finds that a discharge of waste will cause a condition of pollution or nuisance, constituting an emergency requiring immediate action to

protect the public health, welfare or safety. The Regional Water Board finds that the ongoing discharge at the Site constitutes a condition of pollution or nuisance, and the pending conclusion of U.S. EPA's remediation efforts at the Site constitutes an emergency requiring immediate action to protect the public health, welfare and safety.

- U. WHEREAS, the continued migration of contamination through the soil and groundwater is a discharge, and contamination at the site remains unabated and continues to migrate. Since the adoption of the 2012 ACLC, the Shahbazian and Waymire Responsible Parties are alleged to have discharged additional waste, and/or caused or permitted waste to be deposited in or on waters of the State and may be civilly liable under Water Code section 13350, subdivision (a). Under Water Code section 13350, subdivision (d), a court may impose such civil liability not to exceed fifteen thousand dollars (\$15,000) for each day the violation occurs or not to exceed twenty dollars (\$20) for each gallon of waste discharged.
- V. WHEREAS, Water Code section 13350 also allows the Regional Water Board to request that the Attorney General petition the superior court to impose, assess, and recover administrative civil liability for violations of cleanup and abatement orders issued pursuant to Water Code section 13304.
- W. WHEREAS, all enforcement options other than referral to the Office of the Attorney General and any resulting judicial relief have been considered. For example, other possible enforcement avenues include another cleanup and abatement order, cease and desist order, or time schedule order, followed with another administrative civil liability (ACL) process to consider assessing monetary penalties. Because the Regional Water Board has already issued a cleanup and abatement order and an administrative civil liability complaint, and the Shahbazian and Waymire Responsible Parties remain recalcitrant, Board Staff recommends referring the matter to the Attorney General's office as a more direct remedy to remediate the contaminated Site.
- X. WHEREAS, the complex factual and legal issues presented by these matters are better suited for development and presentation by the Office of the Attorney General and for judicial resolution. Specifically, the history of non-compliance with CAO No. R4-2010-0095, the complex history of the Site, and the likelihood that enforcement through the civil judicial process will expedite the relief sought and protect the community surrounding the Site, all weigh in favor of civil judicial enforcement through the Office of the Attorney General. The relief is urgently needed to ensure a continuation of the protection of public health, welfare, and the environment from an imminent and substantial threat presented by the Site, especially with the impending termination of U.S. EPA's emergency response actions and the need for continued operation of vapor intrusion mitigation systems at nearby affected residential and commercial buildings.
- Y. WHEREAS, judicial enforcement of the Water Code allows for the assessment of higher maximum civil liabilities, if appropriate, as well as injunctive relief and the

issuance of a consent judgment. The ability to pursue injunctive relief and/or a consent judgment would allow the Regional Water Board, through the Office of the Attorney General, to place the Responsible Parties under a judicially enforceable timeline to complete assessment, delineation of the contaminated plumes, which originated from the Site, and conduct the appropriate cleanup and abatement.

- Z. WHEREAS, Water Code section 13350, subdivision (g), requires the Regional Water Board to hold a hearing, with due notice of the hearing given to all affected persons, prior to requesting the Attorney General to petition a court to impose civil liability under Water Code section 13350. On January 13, 2021, notice was given in accordance with the requirements of applicable statutes regarding this hearing, and Responsible Parties were given a chance to comment on the proposed Resolution in writing in advance of the hearing. On February 11, 2021, the Regional Water Board held such a hearing in compliance with section 13350, subdivision (g), and considered the testimony and evidence offered at the hearing and in the record.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Regional Water Board hereby authorizes the Executive Officer to request that the Office of the Attorney General seek civil liabilities under the Water Code, including, but not limited to, Water Code sections 13268, 13304, 13340 and 13350, bring other applicable causes of action, and/or seek other relief such as an injunction under Water Code section 13304 as may be appropriate against the Shahbazian and Waymire Responsible Parties.
2. The Regional Water Board hereby authorizes the Executive Officer to participate in any settlement discussions regarding the resolution of the violations at issue. The Regional Water Board retains its authority to approve any proposed settlement of the alleged violations.

I, Renee Purdy, Executive Officer, hereby certify that the foregoing is a full, true, and correct copy of the Resolution adopted by the California Regional Water Quality Control Board, Los Angeles Region, at its regular meeting on February 11, 2021.

Renee Purdy
Executive Officer