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## North Coast Regional Water Quality Control Board

June 10, 2019

Mr. Michael Mihos and Mrs. Tammi Mihos, Trustees  
Michael T. Mihos & Tammi L. Mihos Revocable Living Trust  
19680 Benson Lane  
Fort Bragg, CA 95437

Dear Mr. and Mrs. Mihos:

Subject: **Notice of Violation** of Order to Submit Workplan Pursuant to Health and Safety Code Section 25296.10

Site: **Perkins Trust**, 500 North Main Street, Fort Bragg CA 95437  
APN 008 055 16 00, Case No. 1TMC439, Geotracker ID T0604500361

The Michael T. Mihos & Tammi L. Mihos Revocable Living Trust (hereinafter referred to as the Trust) are hereby given notice that they are in violation of the Order to Submit a Workplan dated October 16, 2018 (attached).

### **I Background**

On February 7, 2018, the North Coast Regional Water Quality Control Board (Regional Water Board) issued a letter to the Trust, which is the current owner of 500 North Main Street (Site) and successor to the Perkins Trust. The letter requested a workplan to remove remaining source area contamination, including the proper removal or closure in place of the three underground storage tanks (USTs), and to investigate metallic anomalies previously detected in the northeast corner of the Site. The letter was accompanied by a legal memo from the State Water Resources Control Board's Office of Enforcement demonstrating that the USTs were owned by the Trust. On February 13, 2018, the Regional Water Board received a letter from the Trust disputing the Office of Enforcement memo and denying responsibility or ownership of the USTs.

On October 16, 2018, the Regional Water Board Executive Officer issued an "Order to Submit Workplan Pursuant to Health and Safety Code Section 25296.10 Corrective Action Requirements" (Order). The Order requires you to submit a workplan for assessment and removal of the USTs by January 9, 2019. In a letter dated October 18, 2018, the Trust reiterated its refusal to claim responsibility or ownership of the USTs.

### **II Applicable Legal Authority and Requirements**

On October 16, 2018, the Regional Water Board Executive Officer issued an "Order to Submit Workplan Pursuant to Health and Safety Code Section 25296.10" to the trustees of the Mihos

VALERIE L. QUINTO, CHAIR | MATTHIAS ST. JOHN, EXECUTIVE OFFICER

Trust. This section of the California Health and Safety Code allows the Regional Water Board to require corrective action in response to an unauthorized release of hazardous substance from an underground storage tank. The Order requires the Trust to provide the following items:

1. A copy of a permit to properly remove the USTs, or close the USTs in place, obtained from your local Certified Unified Program Agency (CUPA), Mendocino County Environmental Health.
2. A Plan for removing the source area contamination, including the proper removal or closure in place of the three USTs; sampling beneath the USTs after the removal or closure in place; and analyses of the samples by EPA Method 8015 (modified) for gasoline and diesel fuel and by EPA Method 8260 for volatile organic compounds, including benzene, toluene, ethylbenzene, xylenes, naphthalene, methyl tert butyl ether, and other fuel oxygenates.
3. A Plan for investigating the anomalies in the northeast corner of the Site.
4. A projected timeline for compliance with the source removal and sampling requirements.

### **III Alleged Violations**

As of this date, the Regional Water Board has received no response from the Trust other than the October 18, 2018 letter. No workplan has been submitted and we are aware of no further efforts made by the Trust or its agents to clean up and abate the continuing impacts and threatened impacts to water quality associated with the remaining USTs at the Site.

### **Required Actions**

The Trust must comply with all requirements of the Order. Your actions to correct the conditions of non-compliance with the Order must be implemented as soon as possible, but no later than July 1, 2019. This deadline is not intended to, and does not, supersede the original deadlines provided in the Order. Specifically, the Trust shall:

Comply with the October 16, 2018, Regional Water Board Executive Officer's letter to submit a workplan to investigate the metallic anomalies previously detected in the northeast corner of the Site and for removing remaining source area contamination, including the proper removal or closure in place of the three USTs remaining at the Site.

All required compliance reports must be submitted to the Regional Water Board via the State Water Resources Control Board's Geographic Environmental Information Management System database (GeoTracker) as specified in Title 23, Division 3, Chapter 30, Article 2, Sections 3890-3895 of the California Code of Regulations.

### **Future Enforcement Action**

Please note that under Health & Safety Code Section 25296.10 (f) if a person to whom an order is issued does not comply with the order, the Regional Water Board or the local agency may undertake or contract for corrective action and seek to recover its costs incurred under this subdivision pursuant to Section 13304 of the Water Code.

Your failure to comply with the Order has exposed you to liability up to \$10,000 for each day of violation pursuant to section 25299(d) of the Health and Safety Code. To date, you have accrued 121 days of violation, resulting in a potential maximum liability of \$1,200,000. The maximum potential liability will continue to accrue at a rate of \$10,000 per day until you comply.

The Regional Water Board will consider your response to this Notice of Violation, as well as days of violation already incurred, in determining whether to seek the imposition of administrative civil liability. Therefore, it is imperative that you comply as soon as possible.

Should you have any questions regarding this matter, please contact Tom Magney of my staff at or (707) 576-2030.

Sincerely,

Charles Reed, P.E.  
Supervising Water Resource Control Engineer

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Attachment: October 16, 2018 Order to Submit Workplan Pursuant to Health and Safety Code Section 25296.10

Certified - Return Receipt Required

cc: Will Nalty, Mendocino County EHD, [naltyw@co.mendocino.ca.us](mailto:naltyw@co.mendocino.ca.us)  
Trey Strickland, Mendocino County Dept of Public Health Environmental Health Division,  
[strickl@co.mendocion.ca.us](mailto:strickl@co.mendocion.ca.us)  
Arron Rambach, [arron.e.rambach@dot.ca.gov](mailto:arron.e.rambach@dot.ca.gov)  
Don McEdwards, The McEdwards Group, [themcedwardsgroup@comcast.net](mailto:themcedwardsgroup@comcast.net)  
Thomas Hawkes, Trustee, Charles R. Perkins Trust, 601 Canyon Drive,  
Pacifica, CA 94044

## North Coast Regional Water Quality Control Board

October 16, 2018

Mr. Michael Mihos and Mrs. Tammi Mihos, Trustees  
Michael T. Mihos & Tammi L. Mihos  
Revocable Living Trust  
19680 Benson Lane  
Fort Bragg, CA 95437

Dear Mr. and Mrs. Mihos:

### **ORDER TO SUBMIT WORKPLAN PURSUANT TO HEALTH AND SAFETY CODE SECTION 25296.10 CORRECTIVE ACTION REQUIREMENTS**

**Site: PERKINS TRUST (T0604500361), 500 NORTH MAIN STREET, FORT BRAGG, CA 95437, MENDOCINO COUNTY (APN 008-055-16-00), Case No. 1TMC439**

In your capacity as trustees of the Michael T. Mihos & Tammi L. Mihos Revocable Living Trust, you have been identified as the current property owners for 500 North Main Street in Fort Bragg, CA. In 2009, three abandoned underground storage tanks (USTs)<sup>1</sup> associated with prior use of this property as a service station were found at the referenced address. In addition, a metallic anomaly was identified on the property as a potential waste oil UST. You are the current property owners and owners of the USTs. These USTs and associated impacted soil are a continuing source of groundwater contamination. As the current property owners and UST owners, you are responsible for the proper removal or closure-in-place of the USTs, performing site assessment to determine the extent of remaining contamination, and cleaning up the contamination.

This Order requires you to submit a workplan for source removal and investigation of the metal anomaly identified above. You are hereby required to submit a workplan for investigating the metallic anomalies in the northeast corner of the site and for removing the source area contamination, including the proper removal or closure-in-place of the three USTs at Perkins Trust (Site), located at 500 North Main Street in Fort Bragg, CA to this office by November 19, 2018.

The workplan shall include the following:

1. A copy of a permit to properly remove the USTs, or close the USTs in place, obtained from your local Certified Unified Program Agency (CUPA), Mendocino County Environmental Health.
2. Plan for removing the source area contamination, including the proper removal or closure-in-place of the three USTs and sampling beneath the USTs after the

<sup>1</sup> Abandoned USTs are those that were not properly removed or closed-in-place in accordance with Health & Safety Code section 25298 and California Code of Regulations, title 23, division 3, chapter 16, article 7, section 2670 et seq.

- removal or closure-in-place. Samples should be analyzed by EPA Method 8015 modified for gasoline and diesel fuel and by EPA Method 8260 for volatile organic compounds, including benzene, toluene, ethylbenzene, xylenes, naphthalene, methyl tert-butyl ether (MTBE), and other fuel oxygenates.
3. Plan for investigating the anomalies in the northeast corner of the Site.
  4. A projected timeline for compliance with the source removal and sampling requirements.

This Order is issued pursuant to Health and Safety Code section 25296.10, which allows the Regional Water Board to require corrective action in response to an unauthorized release of hazardous substance from an underground storage tank. As the current landowners of property on which an unauthorized release has occurred, you have been identified as responsible parties in accordance with California Code of Regulations, title 23, section 2720. If you fail to respond to this Order you may be subject to additional enforcement activities, including civil liability of up to \$10,000 for each underground storage tank for each day of violation pursuant to Health and Safety Code section 25299, subdivision (d). (See also Health & Safety Code, § 25299, subd. (b)(3) for civil liability for the abandonment or improper closure of any UST system.)

As noted in the letter from this office dated February 7, 2018, the State Water Resources Control Board's (State Water Board) Division of Financial Assistance administers funding programs that may be available to assist you.

If you do not proceed with the required corrective action, the State Water Board, Regional Water Board, or local agency may perform the required investigation and cleanup and recover the cost incurred through placing a lien on the property or referring the case to the Attorney General's Office to file a civil action. (Health & Safety Code, §§ 25296.10, subd. (f), 25299.70.)

If you have any questions on this matter, please contact Mr. Tom Magney at (707) 576-2030 or [Tom.Magney@waterboards.ca.gov](mailto:Tom.Magney@waterboards.ca.gov).

Sincerely,



Digitally signed by  
Claudia Villacorta  
Date: 2018.10.16  
13:39:41 -07'00'

Matthias St. John  
Executive Officer  
North Coast Regional Water Quality Control Board

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Certified Mail - Return Receipt Requested

cc: Mr. Gary Leonard, [leonardg@mendocinocounty.org](mailto:leonardg@mendocinocounty.org)  
Mr. Don McEdwards, The McEdwards Group, [themcedwardsgroup@comcast.net](mailto:themcedwardsgroup@comcast.net)  
Mr. Aaron Rambach, [arron.e.rambach@dot.ca.gov](mailto:arron.e.rambach@dot.ca.gov)  
Mr. Trey Strickland, [stricklt@co.mendocino.ca.us](mailto:stricklt@co.mendocino.ca.us)  
Mr. Thomas Hawkes, Trustee, 601 Canyon Drive, Pacifica, CA 94044