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GOVERNOR



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SECRETARY FOR  
ENVIRONMENTAL PROTECTION

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## North Coast Regional Water Quality Control Board

August 3, 2021

David Kushwaha  
831 Rosebud Drive  
Oxnard, CA 93036  
[budget.villa@yahoo.com](mailto:budget.villa@yahoo.com)

Certified No. 7016 2070 0000 6486 2111

Dear Mr. Kushwaha:

Site: Green Valley Exxon, 120784 Highway 101, Orick, California  
Case No. 1THU921

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

You are hereby notified that you are in violation of the Order to Submit a Workplan dated December 31, 2020 (attached).

### **I. Background**

On April 20, 2018, staff of the North Coast Regional Water Quality Control Board (Regional Water Board) sent a letter to you, Mr. David Kushwaha, current owner of the property at 120784 Highway 101 (Site) in Orick, Humboldt County, requesting a revised subsurface investigation workplan including an assessment of the sensitive receptors within the area potentially impacted by petroleum hydrocarbon releases associated with underground storage tanks at the Site.

The Regional Water Board's April 20, 2018 letter followed numerous requests made to you by local agencies to investigate soil and groundwater at the Site. The April 20, 2018 letter requested that you submit the workplan by June 20, 2018. You failed to provide any response to this letter.

On December 31, 2020, the Regional Water Board Executive Officer issued to you an "Order to Submit Workplan Pursuant to Health and Safety Code section 25296.10 Corrective Action Requirements" (Order). That Order directed you to submit a workplan for the investigation of soil and groundwater contamination at the site, in addition to an evaluation of risk to potential sensitive receptors within the area potentially impacted, by March 1, 2021. To date, the Regional Water Board has not received a response from you.

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

The Executive Officer's December 31, 2020 Order cited Health and Safety Code section 25296.10, which allows the Regional Water Board to require soil and groundwater investigation for the presence of an unauthorized release of hazardous substances.

Pursuant to Health and Safety Code section 25299(d), "[a] person who violates a corrective action requirement established by, or issued pursuant to, [section 25296.10](#) is liable for a civil penalty of not more than ten thousand dollars (\$10,000) for each underground storage tank for each day of violation.

In addition, pursuant to subdivision (f) of Health & Safety Code section 25296.10, if a person to whom an order is issued pursuant to subdivision (c) 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.

## **III. Alleged Violations**

As of August 2, 2021, the workplan required pursuant to the December 2020 Order is 154 days late. We have received no workplan or other response from you, and we are not aware of any efforts made by you, or others on your behalf, to investigate the soil and groundwater at the Site for petroleum-related contamination and/or threatened impacts to water quality associated with the underground storage tanks at the Site.

### **Required Actions**

As the owner of the Site, you must comply with all requirements of the December 31, 2020 Order. If you do not take affirmative action to comply with the requirements of that Order and notify Regional Water Board staff of same by September 2, 2021, Regional Water Board staff will recommend further enforcement, including assessment of administrative civil liabilities. This deadline is not intended to, and does not, supersede the original deadlines provided in the Order. Specifically, you must submit a workplan to investigate the soil and groundwater for petroleum contamination and evaluate risk to potential sensitive receptors.

All required compliance reports must be submitted to the Regional Water Board via the State Board's Geographic Environmental Information Management System database (GeoTracker) as specified in 23 California Code of Regulations (CCR) sections 3890-3895.

### **Future Enforcement Action**

Your continued failure to comply with the Order has exposed you to liability up to \$10,000 for each day of violation pursuant to Health and Safety Code section 25299(d).

As noted above, to date, you have accrued 154 days of violation, for a potential liability of \$1,540,000. The 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 the number of days of violation already incurred, in determining whether to seek the imposition of an administrative civil liability complaint as well as additional legal action. Therefore, it is imperative that you comply as soon as possible.

Should you have any questions regarding this matter, please contact Kent Huth of my staff at (707) 576-2669.

Thank you,

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

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Attachment: December 31, 2020 Order to Submit Workplan Pursuant to Health and  
Safety Code Section 25296.10

Certified - Return Receipt Required