



June 20, 2012

VIA FAX (916-341-5199; w/out exhibits) AND EMAIL (jbashaw@waterboards.ca.gov)

State Water Resources Control Board
Office of Chief Counsel
Jeanette L. Bashaw, Legal Analyst
P.O. Box 100
Sacramento, CA 95812-0100

RE: Order to Submit Information Pursuant to
Section 13267 of the California Water Code
(Quincy Bulk Fuel Plant, 188 Crescent Street,
Quincy, Plumas County)

**PETITION FOR REVIEW OF ORDER TO SUBMIT INFORMATION AND REQUEST
FOR STAY**

PETITIONER: Toms Sierra Company, Inc. dba Sierra Energy, 1020 Winding Creek Road, #100, Roseville, CA 95678. Brad Barnett, President (bradbarnett@sierraenergy.net)

ACTION BEING PETITIONED: Order to Submit Information Pursuant to Section 13267 of the California Water Code, Tom's (sic) Sierra Company, Inc., dba Sierra Energy, Quincy Bulk Fuel Plant, 188 Crescent Street, Quincy, Plumas County. (A copy is attached as Exhibit A.)

DATE WATER BOARD ACTED: May 23, 2012

STATEMENT OF REASONS WHY ACTION IS INAPPROPRIATE/IMPROPER:

In its May 23, 2012 Order to Submit Information Pursuant to Section 13267 of the California Water Code, Tom's (sic) Sierra Company, Inc., dba Sierra Energy, Quincy Bulk Fuel Plant, 188 Crescent Street, Quincy, Plumas County (the "Order"), the Central Valley Regional Water Quality Control Board ("CVRWQCB") requests various actions be taken by Toms Sierra Company, Inc. dba Sierra Energy ("Sierra Energy") on four (4) different dates: June 30, 2012; July 30, 2012; August 31, 2012; and, October 5, 2012. These actions are based upon eight "factual" findings stated within the Order. Because a number of these findings are either



unsupported by any evidence, misleading, or just mistaken, the actions the Order requests be taken are both inappropriate and improper.

Finding #3

Finding #3 states “Information shows an unauthorized release of red-dyed kerosene to surface waters from the 188 Crescent Street facility began on 21 February 2011. Sierra Energy owned and/or operated the facility and the secondary containment structure at the time of the unauthorized release.” Sierra Energy agrees both that it owned/operated the facility and secondary containment structure on February 21, 2011. Sierra Energy also agrees that an unauthorized release of red-dyed kerosene occurred at the facility on February 21, 2011. (Importantly, the release occurred as the result of a non-Sierra Energy delivery driver unloading kerosene at the wrong address [in fact, an address to which SST Oil had previously delivered that day; this second delivery was to go to a different facility]. This admittedly mistaken delivery resulted in an overflow spill into the secondary containment basin.) Significantly, however, it is the absence of key facts from this “finding,” and of which the CVRWQCB certainly has knowledge, that makes this finding misleading.

Although known to the CVRWQCB, there is no mention of the cleanup at 188 Crescent Street, which began on February 22, 2011, during which: 14,500 gallons of potentially impacted water and snow were removed, 19.5 tons of potentially impacted soil were removed; the drainage line which led from the secondary containment out toward the v-ditch, once uncovered during the soil excavation, was capped; and, the valve inside the secondary containment basin was locked. In other words, within days of the kerosene release, the mechanism by which the kerosene was released to Clear Stream had been eliminated. Thus, a release such as that which occurred in February 2011 could not happen again. Finding #3’s specific mention of a starting date for the kerosene release, yet no suggestion of an end date, is both improperly misleading and contrary to the factual information known to and in the possession of the CVRWQCB.

Finding #4

Finding #4 states “Additional evidence suggests the 188 Crescent Street facility has a history of unauthorized releases of contaminated stormwater to waters of the state dating back to at least 1996.” Yet, there is a complete lack of evidence either cited to as authority for this statement, or attached to the Order as substantive evidence of the statement.

Finding #4 appears to be based upon pretzel logic pieced together from the following: the statement made in Finding #7 (and addressed in more detail below) that it is standard for bulk fuel plants to have constant small leaks; the fact that the secondary containment basin captures stormwater; and, the test result from a sample taken from standing water in the secondary containment basin on March 28, 2011 during an inspection by the CVRWQCB, the results of which showed kerosene, diesel and gasoline in quantities above Water Quality Objectives. In



other words, because there are small spills at all bulk fuel facilities, every time water was captured in the secondary containment basin, it necessarily became contaminated and was released to the waters of the state.

First, as noted above, there is no mention of the fact that, at the time the March 2011 sample was taken, the mechanism by which the kerosene released occurred had been eliminated.

Additionally, at the time of the March 2011 sample, the valve within the secondary containment basin had already been capped and locked. Thus, the water that was sampled by the CVRWQCB was not at risk of a similar release, nor was there any risk of any similar future release at any time.

Second, there is no evidence presented to support the allegation of any prior unauthorized releases of contaminated stormwater from the 188 Crescent Street facility, let alone a history of such. There are no test results presented, for example, of accumulated stormwater in the secondary containment basin prior to the one sample taken in March 2011 to prove that such stormwater (to the extent there was accumulated stormwater in the secondary containment basin at any point prior to March 2011) was contaminated. Rather, this conclusion is a leap of faith based upon the previously referenced unsupported allegation of consistent small spills at all bulk fuel facilities (which, when mixed with stormwater, according to the unsupported theory put forth by the CVRWQCB, necessarily results in contaminated stormwater), and the result of one test sample taken approximately one month after an acknowledged kerosene spill. As actual evidence, as opposed to fanciful theories, that the CVRWQCB is incorrect, please see the Exhibit B.

In 2011, Sierra Energy set up what is referred to as a “pump and treat” system. In other words, when the secondary containment basin fills with stormwater, Sierra Energy pumps out the water through a carbon vessel and into a 5,000 gallon storage tank for subsequent disposal. Sierra Energy, through its environmental consultant, E2C Remediation, has set up disposal of its water through East Bay Municipal Utilities District (EBMUD). In order to dispose of water at EBMUD, the water to be disposed of must first be tested for TPH-g (gas) and TPH-d (diesel), and the results approved by EBMUD. On March 19, 2012 (significantly, a date prior to any knowledge of Sierra Energy that the stormwater in the secondary containment basin was going to be an issue with the CVRWQCB), the storage tank at 188 Crescent was full of carbon-treated water, and the secondary containment basin was filling with stormwater. Both the storage tank and the untreated secondary containment were sampled for possible disposal at EBMUD. As shown in Exhibit B attached hereto, the results of both samples were non-detect for gas and diesel. These test results completely contradict Finding #4 and the unsupported hypothesis put forth by the CVRWQCB.



Finding #7

Finding #7 states that “Standard practices at a bulk fuel facility result in small spills of petroleum products to both the loading rack and the secondary containment structure. Petroleum products in both the secondary containment structure and the loading rack are allowed to comingle with stormwater that falls into these areas. Sierra Energy currently does not have a plan to treat and remove petroleum products from clean stormwater in the secondary containment structure and the loading rack area. Furthermore, there is no indication that stormwater collected in the secondary containment structure of the loading rack is treated before it is discharged to Clear Stream.” There are so many unsupported allegations put forth as fact, and outright misstatements in these four sentences, Sierra Energy will try to address each one individually.

First, Sierra Energy is at a complete loss to understand the “finding” that small spills of petroleum products occur as a standard practice at bulk fuel facilities. There is no evidence provided to support this claim, nor is there citation to evidence which would support this claim.

Second, there is no definition of the qualifying term “small” and how such spills would result in contamination of accumulated stormwater. For example, does “small” mean one drop of petroleum product that may drip from the delivery truck hose upon completion of a delivery, and is the CVRWQCB contending that is enough to result in contaminated stormwater? Two drops? Is the CVRWQCB claiming that gallons are spilled? And, if so, what is the evidence for such?

Third, Sierra Energy does not understand how it could have a plan to treat and remove petroleum products from “clean stormwater.” If the stormwater is clean, there are no petroleum products to treat and remove. Assuming the CVRWQCB meant to say that Sierra Energy currently has no plan to treat and remove petroleum products which have comeled with stormwater, that is nevertheless incorrect. As noted above, in 2011, Sierra Energy put in a pump and treat system which treats and removes the petroleum products by way of flushing the stormwater through carbon prior to placement of the treated water into a storage tank.

Fourth, the pump and treat system is an indication that stormwater collected in the secondary containment basin is treated before it is discharged (to the storage tank), if such treatment is necessary. As documented by the tests results attached hereto as Exhibit A, despite the fanciful claims of the CVRWQCB, the mere presence of accumulated stormwater in the secondary containment basin does not mean either that such water is contaminated or that it must be treated prior to disposal.

And, fifth, because the mechanism was eliminated in February 2011 by which the accumulated stormwater in the secondary containment basin could otherwise have been discharged to Clear Stream, the finding that stormwater is discharged to Clear Stream is incorrect.



Finding #8

Finding #8 states that, based on the “evidence” presented in Findings #1-7, “Water Board staff has reason to believe that the 188 Crescent Street facility has discharged, and continues to discharge, waste into waters of the state.”

Sierra Energy has never disputed that there was a kerosene release in February 2011 at the 188 Crescent Street facility. As was noted by SST Oil at a meeting on February 14, 2012, at which both Sierra Energy and CVRWQCB staff (Grant Stein and Dale Stultz) were present, SST Oil’s driver’s error resulted in the release of approximately 47 gallons of kerosene. Sierra Energy has also not disputed that as a result of that spill, some kerosene was released into Clear Stream. However, there is absolutely no evidence of any prior discharge of waste into the waters of the state, no evidence that would even support a conclusion that there *may have been* a prior discharge of waste into the waters of the state, and no evidence of any continuing discharge of waste into the waters of the state. In fact, the actual evidence that does exist suggests the opposite. In addition to the stormwater sample taken in March 2012 of the untreated accumulated stormwater in the secondary containment basin, which results were non-detect, in February 2012, E2C Remediation took 6 soil samples at various points along the secondary containment basin and v-ditch leading to Clear Creek, as well as 3 water samples from different points along Clear Creek. See Exhibit C attached (which was provided to the CVRWQCB at the February 14, 2012 meeting). The soil samples were non-detect for kerosene, and according to the lab, the chromatogram for these samples also showed a non-detect for gas and diesel. The water samples were similarly non-detect.

HOW THE PETITIONER IS AGGRIEVED

A brief history of this matter is especially appropriate here.

- The CRWQCB case on 188 Crescent Street was opened in 2002, and Sierra Energy has consistently complied with all CVRWQCB directives since that time.
- In 2007, the CVRWQCB issued a Cleanup and Abatement Order with regards to 188 Crescent Street (CAO R5-2007-0706; 188 Crescent Street, Quincy, CA). Again, Sierra Energy has done everything to comply with the requests of the CVRWQCB in an effort to move the site toward closure.
- The CAO, for example, requested a workplan addendum by May 31, 2007. This was timely submitted and approved by the CVRWQCB on June 14, 2007.
- An Upgrade Work Plan and Corrective Action Plan were requested by October 1, 2007. These were timely submitted; however, to this date, the CVRWQCB has failed to respond to the Corrective Action Plan which would have allowed Sierra Energy to proceed with the work recommended therein.
- From 2007-2010, Sierra Energy, through its environmental consultants, timely performed all requested groundwater monitoring and submitted quarterly monitoring reports.



- In December 2008, Sierra Energy's environmental consultant requested a No Further Action letter on this site. From January 2009-December 2009, E2C Remediation, on behalf of Sierra Energy, made numerous attempts to reach the CVRWQCB to discuss items for closure without response. (Copies of the email correspondences from E2C Remediation to the CVRWQCB have previously been provided to the CWRQCB.)
- On April 13, 2011, a second No Further Action Request was submitted by E2C Remediation. The request was denied on August 22, 2011, which, upon CVRWQCB request, was followed by the filing of an Additional Site Investigation Workplan by E2C Remediation on September 9, 2011. To date, there has been no response to that workplan.
- On March 5, 2012, the CVRWQCB issued a Notice of Violation regarding CAO R5-2007-0706; 188 Crescent Street, Quincy, CA. The notice alleged that Sierra Energy had not taken any of the actions noted above. Because the CVRWQCB had apparently misplaced all of the filings/documents on this site going back to at least 2007 (including not having a copy of its own June 2007 directive approving the workplan addendum), Sierra Energy had to spend significant time and legal fees to gather all of these documents and submit them again, along with a written response, to the CVRWQCB.
- On April 6, 2012, the CVRWQCB withdrew the NOV and issued a Revised NOV. Again, the document contained numerous inaccuracies and also failed to note, in a number of areas, evidence that had been presented by Sierra Energy with regards to both the site going back to 2007 and the kerosene spill in 2011. Again, Sierra Energy was required to spend significant time and legal fees in preparing a response. That response resulted in a subsequent conference call with the CVRWQCB and this Order.

Sierra Energy has consistently complied with all of the requests of the CVRWQCB regarding the 188 Crescent Street location, and had the same goals as the CVRWQCB should have: closure of the 188 Crescent Street site. To the extent Sierra Energy has not yet received closure, since 2007 it is well documented that such failure has been the result of the CVRWQCB failures to act.

Sierra Energy is aggrieved by this Order because it is again being required to spend significant time and legal fees to resolve repeated and stubborn inaccuracies from the CVRWQCB. This is time and money that could better be spent on cleanup and closure of the 188 Crescent Street site. Instead, the Order now proposes that, rather than focus on the last few items which may be needed for closure of the site, Sierra Energy should focus its time, energy, and money toward preparing a history of the rainfall in Quincy, California over the 16 years. There is no evidentiary foundation for this request.

The Order is also hopelessly overbroad. The Order requests, as part of the action required by June 30, 2012, that Sierra Energy advance numerous soil borings, take numerous soil and groundwater samples, and analyze the requested soil and groundwater samples “for all potential constituents of concern.” Sierra Energy has no understanding as to what is required therein, why the CVRWQCB cannot identify the “potential constituents of concern,” nor why such additional



sampling would even be required. As was extensively documented by Sierra Energy's response to the March 2012 Notice of Violation, in the reports that were inexplicably lost by the CVRWQCB, for the period 1st Q 2007 through 1st Q 2008, all monitoring wells were showing Non-Detect for all required constituents, including ethanol, except for TPHd and MtBE. The December 12, 2008 Second and Third Quarter 2008 Groundwater Monitoring Report and Request for No Further Action concluded that, in those quarters, TPHg, TPHd, and BTEX were all non-detect at every monitoring well across the site. Further, that residual dissolved-phase COCs at the site were very low and those concentrations were being mitigated by the natural attenuation process. And, on January 25, 2011, a Fourth Quarter 2010 Monitoring Report was issued. That report again noted non-detect results for TPHd, BTEX, DIPE and ETBE in wells S-1R (the replacement well for damaged well S-1), S-2, S-3, M-1, D-1 and D-3. Significant declining concentrations were also noted for the period 2002-2010.

The Order also requires, by July 30, 2012, that Sierra Energy submit information including “annual estimates of the volume of storm water discharged from the secondary containment structure dating back to 1996.” The CVRWQCB has one sample taken from the secondary containment basin approximately one month after an acknowledged kerosene spill that exceeded water quality objectives. Sierra Energy has a sample taken from the same location approximately one year after the acknowledged kerosene spill whose results were all non-detect. There is no evidence of any release prior to that in February 2011.

Therefore, the further work required by the Order based on theoretical “possible” prior releases, in the complete absence of any supporting evidence, is contrary to the objectives of Water Code section 13267 because the burden of performing that work, including the significant costs of the work, do not bear a reasonable relationship to the need for the work and/or the benefits to be obtained therefrom.

Sierra Energy is further aggrieved by this Order because it is being subjected to potential monetary penalties despite never having refused to cooperate with the CVRWQCB. There is no reason for a Section 13267 Order against a company which has consistently done everything of which it has been asked.

ACTION REQUESTED

Sierra Energy respectfully requests that the Order be withdrawn in its entirety. Importantly, Sierra Energy wishes to express that it remains willing to perform all of the actions which are reasonable and necessary for bringing the 188 Crescent Street site to closure, and has attempted over the last 5 years to work with the CVRWQCB on exactly that. Rather than proceed accordingly by way of directive and working with Sierra Energy, however, the CVRWQCB has chosen, in the absence of evidence or explanation, to work against Sierra Energy with repeated Notices of Violations and Orders based on inaccuracies and suppositions. Such action should not be countenanced.



COPIES PROVIDED

Copies of this Petition and Request for Stay have been sent to the CVRWQCB.

ISSUES PREVIOUSLY PRESENTED

As noted above, the issues raised in the Petition were presented multiple times to the CVRWQCB prior to the CVRWQCB acting in issuing the Order.

REQUEST FOR STAY

As part of this Petition, Sierra Energy respectfully requests a stay of the CVRWQCB's Order pending final action on the Petition by the State Board.

As documented above, in the absence of a stay, Sierra Energy will be substantially harmed. The work being requested by the CVRWQCB is extensive, and the cost to Sierra Energy to perform all of the actions, which are both overbroad and unnecessary, will be burdensome. Further, the overwhelming majority of the work is requested to be performed by June 30, 2012 and July 30, 2012, and the entirety of the work by October 5, 2012. Thus, absent the granting of the stay being requested, Sierra Energy would likely have to expend all the burdensome costs for the unnecessary work prior to the Petition herein being heard and ruled upon.

Significantly, there will be no substantial harm to any other persons or to the public interest if the stay is granted. This is a matter that the CVRWQCB has failed to actively participate in since 2007, despite the attempts of Sierra Energy. It could hardly be stated now that the CVRWQCB will somehow be substantially harmed if a stay is granted. Most importantly, as well documented above, Sierra Energy has both removed the mechanism by which the February 2011 release occurred and put into place a pump and treat system to handle stormwater in the secondary containment basin (as well as the fact that this Petition and Request for Stay are being filed at the onset of Summer and the dry season in Quincy). Therefore, there would be no substantial harm to the general public if a stay was granted.

Lastly, as has been outlined above, and as has been outlined repeatedly to the CVRWQCB, there are substantial issues of fact regarding the Order.

Attached hereto as Exhibit D is a Declaration of Brad Barnett in support of the Request for Stay.



Thank you very much for your time and consideration. If there are any questions regarding the above, please feel to contact Brad Barnett at (916) 218-1639 or Taylor Florence, Esq. at (916) 930-2582. Sierra Energy looks forward to receiving your responses.

Respectfully,

A handwritten signature in black ink, appearing to read "Brad Barnett".

Brad Barnett
President, Sierra Energy

cc:

Robert A. Crandall, Assistant Executive Officer, CVRWQCB
Pamela Creedon, Executive Officer, CVRWQCB
Ellen Howard, State Water Board, Office of Enforcement
Gerald Sipe, Plumas County Department of Environmental Health

EXHIBIT A



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Central Valley Regional Water Quality Control Board

23 May 2012

CERTIFIED MAIL

7009 2250 0002 9885 2975

Mr. Brad Barnett
Tom's Sierra Company
1020 Winding Creek Road, Suite 100
Roseville, CA 95678

ORDER TO SUBMIT INFORMATION PURSUANT TO SECTION 13267 OF THE CALIFORNIA WATER CODE, TOM'S SIERRA COMPANY, INC., DBA SIERRA ENERGY, QUINCY BULK FUEL PLANT, 188 CRESCENT STREET, QUINCY, PLUMAS COUNTY

You are legally obligated to respond to this directive. Please read this letter carefully.

Central Valley Regional Water Quality Control Board (Central Valley Water Board) staff has reviewed the subject case file. As the owner/operator of the bulk fuel facility you are being notified, pursuant to Water Code section 13267, that you are to submit information regarding discharges of waste from the 188 Crescent Street facility to waters of the state of California.

Water Code section 13267(b) authorizes the Central Valley Water Board to require any person who has discharged waste to submit technical reports as may be required to investigate discharges of waste. Section 13267 states, in part:

(b)(1) In conducting an investigation . . . , the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or, discharging, or who proposes to discharge waste within its region . . . shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.

The Central Valley Water Board finds that:

1. Tom's Sierra Company, Inc., dba Sierra Energy (Sierra Energy) is the owner and/or operator of the Quincy Bulk Fuel Plant , 188 Crescent Street, Quincy, Plumas County, California.
2. Products stored at the Quincy Bulk Fuel Plant include gasoline, diesel fuel, methanol, kerosene, hydraulic oil, bar and chain oil, and motor oil.

KARL E. LONGLEY ScD, P.E., CHAIR | PAMELA C. CREEDON P.E., BCEE, EXECUTIVE OFFICER

415 Knollcrest Drive, Suite 100, Redding, CA 96002 | www.waterboards.ca.gov/centralvalley

3. Information shows an unauthorized release of red-dyed kerosene to surface waters from the 188 Crescent Street facility began on 21 February 2011. Sierra Energy owned and/or operated the facility and the secondary containment structure at the time of the unauthorized release.
4. Additional evidence suggests the 188 Crescent Street facility has a history of unauthorized releases of contaminated stormwater to waters of the state dating back to at least 1996. The facility has two drainage lines that plumb both the above ground storage tank secondary containment structure and the area around the loading rack to a v-ditch that discharges to Clear Stream. Inspections of the facility show that these drainage lines discharge stormwater from the secondary containment structure and the area surrounding the loading rack to the v-ditch. Water that accumulates in the v-ditch discharges directly to Clear Stream, a water of the state.
5. Inspections by Central Valley Water Board staff suggest that the integrity of the above ground storage tank secondary containment structure may be compromised. Central Valley Water Board and Department of Fish and Game inspection reports note cracks within the concrete floor of the containment structure. In addition, inspection reports from 1995 and 1996 note that the floor of the secondary containment structure was not complete for some period of time.
6. Groundwater levels in the Quincy area are very high. Any water that is allowed to accumulate at the surface for a period of time will likely comingle with the underlying groundwater. Discharged stormwater from the secondary containment structure and the loading rack can pool in the v-ditch and comingle with the underlying groundwater. Accumulated storm water that may infiltrate through the floor of the secondary containment structure is likely to impact shallow groundwater.
7. Standard practices at a bulk fuel facility result in small spills of petroleum products to both the loading rack and the secondary containment structure. Petroleum products in both the secondary containment structure and the loading rack are allowed to comingle with stormwater that falls into these areas. Sierra Energy currently does not have a plan to treat and remove petroleum products from clean stormwater in the secondary containment structure and the loading rack area. Furthermore, there is no indication that stormwater collected in the secondary containment structure or the loading rack is treated before it is discharged to Clear Stream.
8. Based on this evidence, Water Board staff has reason to believe that the 188 Crescent Street facility has discharged, and continues to discharge, waste into waters of the state.

You are hereby notified that, pursuant to Water Code section 13267,

By June 30, 2012: A workplan for subsurface investigation must be submitted to the Central Valley Water Board. The workplan should evaluate potential pollutant impacts to shallow soils and groundwater around and below the secondary containment structure, along the conveyance line from the secondary containment structure to the v-ditch, along the conveyance line from the loading rack drop-inlet to the v-ditch, and within the v-ditch itself. Borings should be spaced at a minimum of approximately every 30 feet around the secondary containment structure, along the conveyance line from the secondary containment structure to the v-ditch, along the conveyance line from the loading rack drop-inlet to the v-ditch, and within the v-ditch itself. Borings should be of sufficient depth to evaluate impact to soils in the unsaturated zone, soils within the vadose zone, and shallowest groundwater. Soil samples should be obtained at a minimum of every three feet of depth within each boring. Soil and groundwater samples should be analyzed for all potential constituents of concern. At least one sample of representative unpolluted soils should be obtained for bulk density, moisture content, and fractional organic carbon.

By 30 July 2012: You are required to submit information about discharges of stormwater from the secondary containment structure and the loading rack. Such information shall include:

- A detailed description of Sierra Energy's current and historical practices of managing accumulated storm water,
- Sierra Energy's current and historic practices of characterizing accumulated stormwater prior to discharge,
- Annual estimates of the volume of storm water discharged from the secondary containment structure dating back to 1996,
- Inspection records documenting storm water discharges from secondary containment,
- Any manifests associated with the offsite disposal of accumulated storm water,
- Records of any other methods/procedures used to dispose of accumulated secondary containment water,
- All analytical data generated during characterization of secondary containment water,
- Construction drawings/as-builts or other description of conveyance structures leading from the secondary containment structure and drop inlet near the loading racks to the drainage ditch located along the northeastern property boundary,
- A description of any surficial releases of petroleum products or products containing petroleum to the environment between 1 January 1995 and 1 May 2012, and
- Documentation of any inspection and/or testing of secondary containment structure integrity.

By 31 August 2012: You must submit a certification verifying that field work associated with the subsurface investigation is completed to the Central Valley Water Board.

By 5 October 2012: You must submit a report of findings summarizing results of the subsurface investigation to the Central Valley Water Board. The report of findings must include a map showing boring locations, logs of all soil borings advanced during this investigation, interpretive cross-sections of the investigative area with contoured constituent concentrations, and recommendations for future work, if appropriate. The information required by this Order is necessary to determine the extent of pollution, develop corrective actions, and to assure protection of waters of the State, public health, and the environment. The subject case file

23 May 2012

contains evidence that shows that the persons named in this letter own the site on which waste has been discharged, and/or caused or permitted the discharges of waste at the site, and therefore are responsible for cleanup. The cost of these reports bears a reasonable relationship to the Central Valley Water Board's need to collect information about discharges of waste and to protect water quality.

Failure to comply with this Order or other Central Valley Water Board orders may result in enforcement actions, including the issuance of a cleanup and abatement order and/or the imposition of monetary penalties. Failure or refusal to furnish information required by section 13267(b) may result in administrative civil liability not to exceed one thousand dollars (\$1,000) for each day it is late pursuant to Water Code section 13268 or additional enforcement pursuant to Water Code section 13308, or both.

Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., within 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:

www.waterboards.ca.gov/public_notices/petitions/water_quality

or will be provided upon request.

Please contact Grant Stein of my staff at (530) 224-4788 to discuss any comments or questions you may have regarding this matter.



Robert A. Crandall
Assistant Executive Officer

GCS: jmtm

cc: Ms. Pamela Creedon, Executive Officer, Central Valley Water Board, Rancho Cordova
Ms. Ellen Howard, State Water Board, Office of Enforcement, Sacramento
Mr. Gerald Sipe, Plumas County Department of Environmental Health, Quincy

EXHIBIT B

PROVERA ANALYTICAL LABORATORIES

Chain of Custody Form

12032301

Client Name: E ₂ C REMEDIATION		Analysis Requested									
Project Name: E ₂ CR 3000-005, Batch #1		<input checked="" type="checkbox"/> Aqueous <input type="checkbox"/> Soil <input type="checkbox"/> Acidified <input type="checkbox"/> Comments <p>P11(b6 -a)</p>									
Client Address: 5300 Woodmere Dr. Suite 105 Bakersfield, CA											
Project Manager: Phil Gacquin											
Sampler Name: Dave French											
Sample Date	Sample Time	Sample Description and Container Type									
3/19/12	6:00 am	E2CR3000-005, Tank 4 amber + 3 vials									
3/19/12	6:10 am	E2CR3000-005, Container #1 1 amber + 3 vials									
Sampling Event: EBMUD											
EDF Type: GW Monitoring Other 3°C											
Turnaround Time Requested: 24 Hour <input checked="" type="checkbox"/> 48 Hour <input type="checkbox"/> 5-Day <input type="checkbox"/> Standard <input type="checkbox"/>											
Relinquished By: <u>Dave French</u>		Date: 3/19/12		Relinquished By:		Date: 3/20/12					
Received By: <u>Michael Scott</u>		Date: 3/19/12		Received By:		Date: 3/23/12					



ProVera
Analytical Laboratories, Inc.

Laboratory Report

Certification #2606

CLIENT: E2C Remediation
5300 Woodmere Drive, Suite 105
Bakersfield, CA 93313

Project Name: **E2CR3000-006**
BATCH 1

Matrix: AQ
Sampled by: DFRENZAL

TESTS: TPH Gas by EPA 8015M
TPH Diesel by EPA 8015M

TPH d Analysis: 3/26/2012
TPH g Analysis: 3/26/2012
Date of Report: 3/30/2012
Units: ug/l

Sample #:	11606-001	11606-002	DL ug/l
Date Sampled:	3/19/2012	3/19/2012	
Sample Description:	E2CR3000-005 TANK E2CR3000-005 PIT		
	BATCH 1	BATCH 1	
TPH Gasoline	<50.0	<50.0	50.0
TPH Diesel	<50.0	<50.0	50.0
Standard Recovery %	107.0%	107.0%	

DL = Detection Limit

ND - Non-Detect at given DL


Principal Analyst: Jeff Scheidemantel

EXHIBIT C

PROVERA ANALYTICAL LABORATORIES

Chain of Custody Form 120202

ProVera
Analytical Laboratories, Inc.

Laboratory Report

Certification # 2606

CLIENT: E2C Remediation
5300 Woodmere Drive, Suite 103
Bakersfield, CA 93313

Project Name: 188 CRESCENT
Matrix: AQ
Sampled by: GBRANDIN

TESTS: TPH Gas by EPA 8015M

TPH k Analysis: 2/10/2012
Date of Report: 2/13/2012
Units: ug/l

Sample #:	11541-001	11541-002	11541-003	DL ug/l
Date Sampled:	2/8/2012	2/8/2012	2/8/2012	
Sample Description:	CREEK 1	CREEK 2	CREEK 3	
TPH Kerosene	<50.0	<50.0	<50.0	50.0
Surrogate Recovery %	92%	92%	92%	

DL = Detection Limit

ND - Non-Detect at given DL


Principal Analyst: Jeff Scheidemantel

PROVERA ANALYTICAL LABORATORIES

Chain of Custody Form

ProVera
Analytical Laboratories, Inc.

Laboratory Report

Certification #2606

CLIENT: E2C Remediation
5300 Woodmere Drive, Suite 105
Bakersfield, CA 93313

Project Name: 188 CRESCENT CITY

Matrix: SOIL
Sampled by: GBRANDIN

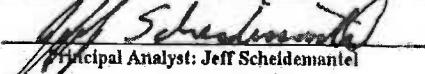
TESTS: TPH Kerosene by EPA 8015M

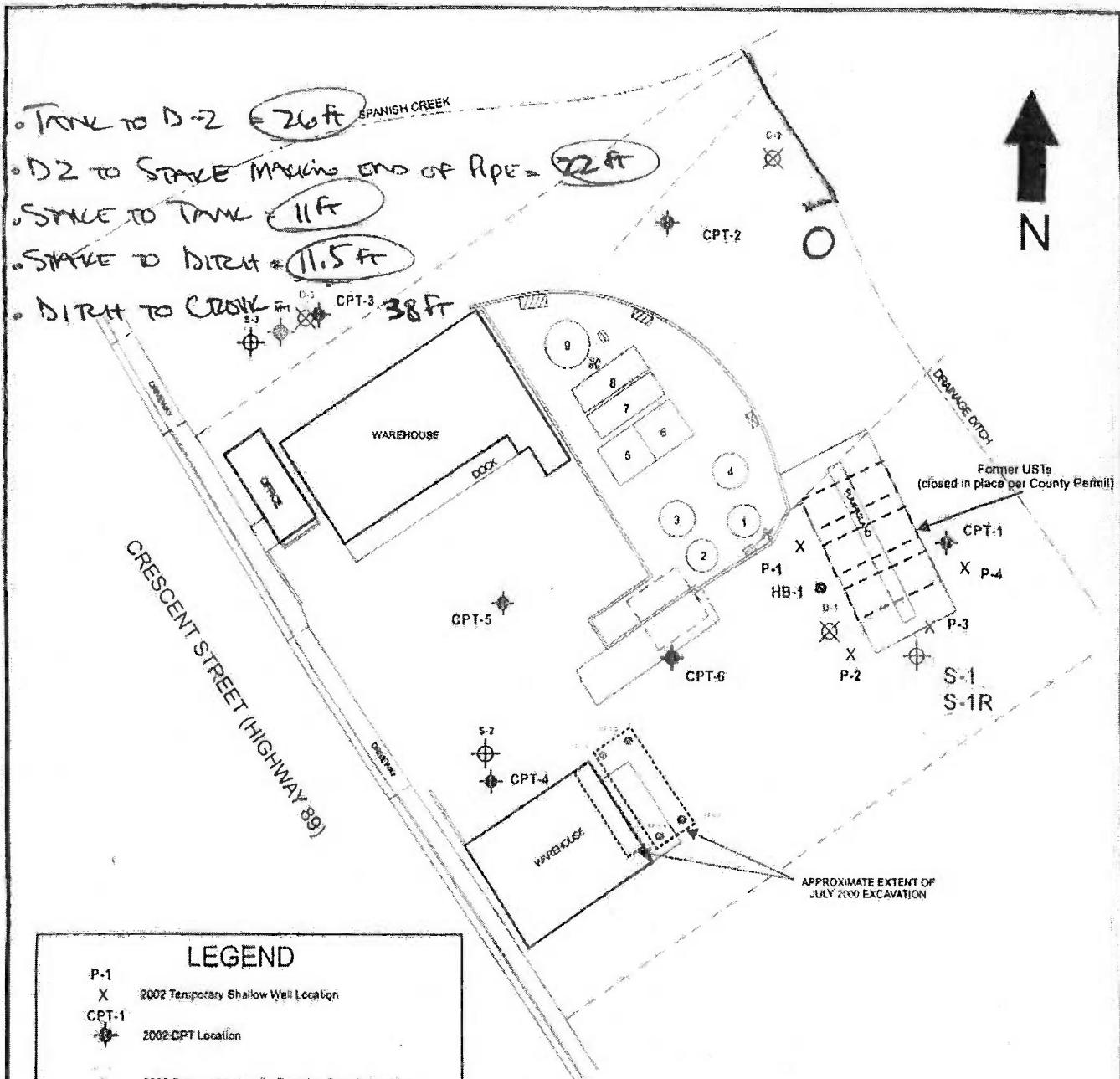
TPH k Analysis: 2/9/2012
Date of Report: 2/10/2012
Units: mg/kg

Sample #:	11537-001	11537-002	11537-003	11537-004	11537-005	11537-006	DL mg/kg
Date Sampled:	2/8/2012	2/8/2012	2/8/2012	2/8/2012	2/8/2012	2/8/2012	
Sample Description:	SS-1	SS-2	SS-3	SS-4	SS-5	SS-6	
TPH Kerosene	<0.1	<0.1	<0.1	<0.1	<0.1	<0.1	0.1
Surrogate Recovery %	83.2%	83.2%	83.2%	83.2%	83.2%	83.2%	

DL = Detection Limit

ND - Non-Detect at given DL

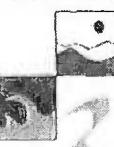

Principal Analyst: Jeff Scheidemantel



AST LIST

- AST 1 - 20,000 GALLON REGULAR UNLEADED
- AST 2 - 20,000 GALLON CLEAR DIESEL
- AST 3 - 20,000 GALLON DYED DIESEL
- AST 4 - 20,000 GALLON KEROSENE
- AST 5 - 10,000 GALLON PREMIUM UNLEADED
- AST 6 - 10,000 GALLON EMPTY
- AST 7 - 7,000 GALLON BAR CHAIN OIL CLEAR DIESEL
- AST 8 - 7,000 GALLON HYDRAULIC OIL
- AST 9 - 3,000 GALLON MOTOR OIL

0 40 FT
APPROX. SCALE


E₂C Remediation
5300 Woodmere Dr., Suite 105
Bakersfield, CA 93313

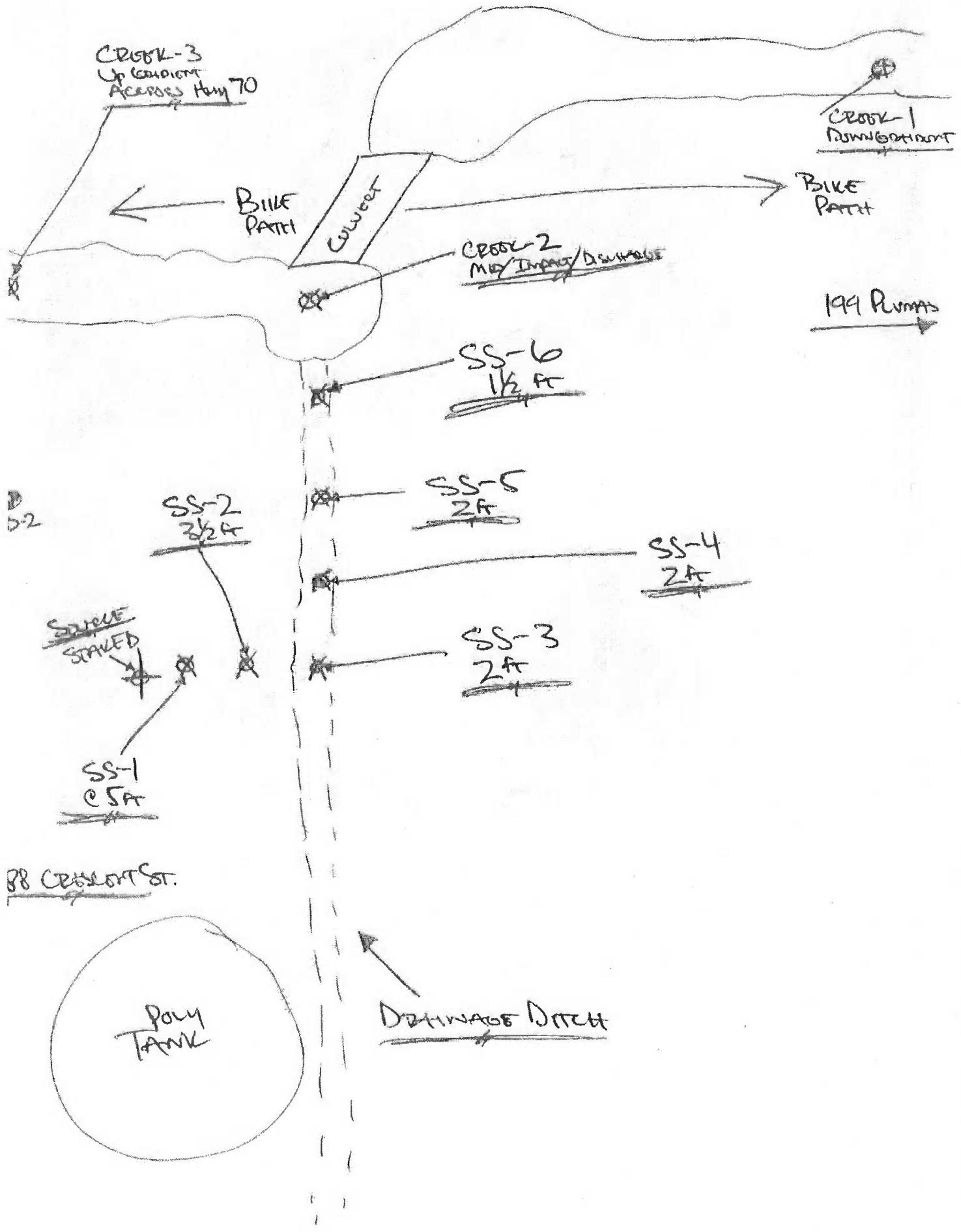
Phone: (661) 831-6906
Fax: (661) 831-6234

SIERRA ENERGY - QUINCY BULK PLANT
188 CRESCENT STREET
QUINCY, CALIFORNIA

SITE PLAN

FIGURE

2





Google earth

feet
meters

2012 Google

90
20



EXHIBIT D

**DECLARATION OF BRAD BARNETT RE REQUEST FOR STAY REGARDING
ORDER TO SUBMIT INFORMATION PURSUANT TO SECTION 13267 OF THE
CALIFORNIA WATER CODE (Quincy Bulk Fuel Plant, 188 Crescent Street, Quincy,
Plumas County)**

I, BRAD BARNETT, declare:

1. I am the President of TOMS SIERRA COMPANY, INC., a California corporation, dba SIERRA ENERGY ("Sierra Energy"). I was hired as President on or about March 17, 2003. I am familiar with all of the matters set forth herein, and with all of the matters set forth in the Petition for Review of Order to Submit Information and Request for Stay, and if called as a witness, I could and would competently testify thereto.
2. If the requested Stay is not granted, Sierra Energy will be substantially harmed. The work being requested by the Central Valley Regional Water Quality Control Board ("CVRWQCB") is extensive, and the cost to Sierra Energy to perform all of the actions will be burdensome.
3. For example, Sierra Energy has obtained a cost estimate proposal for just the work requested to be performed by June 30, 2012. That estimate is over \$29,000. Add to that the Sierra Energy time needed to oversee the work to be performed (approximately 40-60 hours of company oversight with a value of approximately \$1,500), and the business interruption due to the requested drilling, and for just the first part of the requested work, the cost to Sierra Energy is well over \$30,000, without even accounting for the likely legal oversight that will be required. For the work to be performed by July 30, 2012, because of the expansive time period requested, the exhaustive research and correlation that will be necessary, and the legal oversight likely required, Sierra Energy expects those actions to cost even more than the initial phase.
4. The overwhelming majority of the work requested in the Order is to be performed by June 30, 2012 and July 30, 2012, and the entirety of the work by October 5, 2012. Thus, absent the granting of the stay, Sierra Energy would likely have to expend all the burdensome

costs for the requested work prior to the Petition herein being heard and ruled upon.

5. There will be no substantial harm to any other persons or to the public interest if the stay is granted.

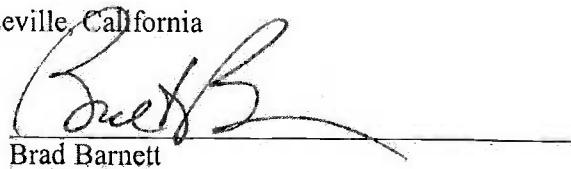
6. This is a matter that the CVRWQCB has failed to actively participate in since 2007, despite the attempts of Sierra Energy. It could hardly be stated now that the CVRWQCB will somehow be substantially harmed if a stay is granted.

7. Sierra Energy has both removed the mechanism by which the February 2011 release occurred and put into place a pump and treat system to handle stormwater in the secondary containment basin (as well as the fact that the Petition and Request for Stay are being filed at the onset of Summer and the dry season in Quincy). Therefore, there would be no substantial harm to the general public if a stay was granted.

8. There are substantial issues of fact regarding the Order, as outlined in the accompanying Petition and as have been outlined repeatedly to the CVRWQCB.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct based upon my own personal knowledge, and if called upon to testify I would and could competently testify thereto.

Executed this 20th of June, 2012 at Roseville, California


Brad Barnett