

# MEARNS CONSULTING LLC

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September 10, 2015

*via email*

Mr. George Lockwood  
Ms. Therese Barakatt  
State Water Resources Control Board  
Office of Chief Counsel  
1001 I Street, 22<sup>nd</sup> Floor  
Sacramento, CA 95814

RE: **Petition Los Angeles Regional Water Control Board's Action & Inactions dated August 13, 2015  
City of Long Beach Fleet Services  
2929 E Willow Street, Long Beach, California  
Case No. 908061361 Priority B-2 Site**

Dear Mr. Lockwood and Ms. Barakatt:

On behalf of the City of Long Beach, Mearns Consulting LLC is filing this petition regarding the Los Angeles Regional Water Quality Control Board's action denying approval of the Groundwater Investigation Workplan dated April 29, 2015 and continued inaction regarding the previously submitted scaled facility figure and summary data table for the City of Long Beach Fleet Services located at 2929 E. Willow Street, Long Beach, California (LARWQCB Case No. 908061361 Priority B-2 site).

**1. Petitioner -** Ms. Susan L. Mearns, PhD  
Mearns Consulting LLC  
738 Ashland Avenue  
Santa Monica, CA 90405  
310.403.1921  
[Mearns@MearnsConsulting.com](mailto:Mearns@MearnsConsulting.com)

Mr. Michael Conway  
Director City of Long Beach Business and Property Development Bureau  
City of Long Beach  
333 W. Ocean Blvd., 11<sup>th</sup> Floor  
Long Beach, CA 90802  
562.570.52.82  
[Michael.Conway@longbeach.gov](mailto:Michael.Conway@longbeach.gov)

**2. Action being petitioned -** LARWQCB's determination the Groundwater Investigation WorkPlan submitted via Geotracker on April 29, 2014 is "deficient because it fails to characterize the groundwater under the entire site as required" (LARWQCB, August 13, 2015) (attached).

**2. Inaction being petitioned -** LARWQCB's refusal to accept the scaled facility figure of the 22-acre site submitted via GeoTracker on April 27, 2014, May 14, 2014 and December 5, 2014.

**2. Inaction being petitioned -** LARWQCB’s refusal to accept the summary data table submitted via GeoTracker on March 2, 2011 and acknowledged by LARWQCB in correspondence dated April 12, 2012.

**3. Date of LARWQCB’s Action and Inactions -** August 13, 2015

**4. Statement of the reasons the action and inactions were inappropriate or improper -** The requested scaled facility figure and summary data table were previously submitted via GeoTracker in the following documents: (1) Response to LARWQCB’s Questions, Fleet Services, 2600 Temple, March 2, 2011; (2) Geo\_Map April 27, 2014; (3) Phase II Environmental Site Assessment – Groundwater Investigation, REQUEST for SITE CLOSURE, City of Long Beach Fleet Services, May 14, 2014 and (4) Response to LARWQCB’s Denial of Case Closure, City of Long Beach Fleet Services, December 5, 2014.

Mr. Bjostad (LARWQCB, Case Manager) acknowledged receipt of the summary data table in his correspondence dated April 12, 2012. The scaled facility figure of the 22-acre property was prepared by the survey company Dulin & Boynton in 2014 at a cost in exceedance of \$9,000 and includes pipelines, the former fueling station, the location of the former ARCO/BP pipeline E22 spill, the three groundwater monitoring wells, aboveground storage tanks, onsite structures in addition to surveyed topography and elevation changes.

A groundwater investigation workplan was prepared for the site pursuant to the directives from the LARWQCB and State Water Resources Control Board (SWRCB) to provide additional onsite groundwater data (LARWQCB November 10, 2014, February 12, 2015, March 17, 2015; SWRCB March 30, 2015) and submitted via GeoTracker on April 29, 2014.

The LARWQCB correspondence dated August 13, 2015 cites California Code of Regulations (CCR), title 23, section 2720-2727.

The referenced CCR’s are specific to corrective action from a release from underground storage tanks (USTs). The groundwater investigation workplan submitted to the LARWQCB on April 29, 2015 is in conformance with CCR title 23, Sections 2720 through 2727.

The City of Long Beach removed the five former USTs, two fuel dispenser islands and associated appurtenances in addition to three waste oil tanks from the site in 1999 prior to mass over-excavation and grading of the 22-acre site for redevelopment. Soil was excavated to a depth of 13-feet below ground surface (bgs) at the former location of the fueling station and 921 tons of soil was appropriately disposed (Mearns Consulting LLC, May 14, 2014).

An additional 400 cubic yards of soil impacted by a BP/ARCO pipeline was removed and appropriately disposed in 2008 from an excavation that extended to 45-feet bgs (Mearns Consulting LLC, May 14, 2014).

Soil and groundwater were investigated in October 2012 and March 2014 at the direction of the LARWQCB. The groundwater analytical results are reported in µg/L and are summarized in the tables below. MW2 is located in the alley north of the site, immediately downgradient of Shell Oil Pipelines. MW3 is located at the former onsite fuel station. MW1 is upgradient of the site, immediately downgradient of Shell Oil Pipelines. See attached scaled facility figure.

Well	Location	TPH-g	Benzene	DIPE	Ethylbenzene	Toluene	m,pXylene	oXylene
Year		2012	2012	2012	2012	2012	2012	2012
MW2	Shell pipelines	35000	8,200	2,600	1,300	140	3,000	<50
MW3	onsite	2200	420	49	41	15	35	5.6

Well	Location	TPH-g	Benzene	DIPE	Ethylbenzene	Toluene	m,pXylene	oXylene	Naphthalene	MTBE
Year		2014	2014	2014	2014	2014	2014	2014	2014	2014
MW2	Shell ppl	13000	7,300	1,700	700	52	380	19	79	17
MW3	onsite	1300	380	<1	3.7	5.4	5.4	2.6	<1	<1
MW1	Shell ppl	2400	730	<1	140	180	240	150	<1	<1

**5. How the petitioner is aggrieved -** The City of Long Beach is aggrieved as groundwater data in proximity to the former fuel station apparently is necessary to close the case within the SWRCB’s UST program (CCR title 23). The City of Long Beach is prevented by the LARWQCB’s actions from collecting this data using hydropunch technology. The City of Long Beach is aggrieved as two sources of groundwater contamination, i.e., Shell Oil Pipelines, upgradient and downgradient of the site have been identified by the City and yet it appears the LARWQCB is attempting to use the SWRCB UST program to force the City to investigate and characterize groundwater contamination attributable to Shell Oil Pipelines. The City of Long Beach is aggrieved as low-threat UST closure conditions (SWRCB 2012) have been met for the former onsite fuel station and closure has been repeatedly denied.

**6. The action the petitioner requests the State Water Board to take -** The City of Long Beach has requested case closure for the 22-acre site on two separate occasions. The City of Long Beach has been advised in order to successfully close the case file additional groundwater data is necessary in the vicinity of the former fuel station to show the former fuel station, the only potential onsite source pursuant to the regulations cited, CCR title 23, is not the source of the contaminants detected in the two offsite monitoring wells, each placed downgradient of Shell Oil Pipelines. Therefore the City of Long Beach requests the SWRCB find the Groundwater Investigation Work Plan submitted on April 29, 2015 adequate for the work proposed and approve the Work Plan. Additionally the City of Long Beach requests the SWRCB find the previous submittals of the scaled facility figure and summary data table adequate under CCR title 23, sections 2720-2727 and approve the submittals. Ultimately the City of Long Beach requests the SWRCB find the City has met the low-threat UST closure conditions (SWRCB 2012) and approve case closure.

**7. A statement of points and authorities for any legal issues raised in the petition, including citations to documents or hearing transcripts that are referred to -** Between 70 – 100 feet of clean soil is documented at the former fuel station onsite (Mearns Consulting LLC, May 14, 2014). The groundwater underlying the site has the lowest concentrations of detected constituents and these concentrations have decreased over time.

The offsite soil and groundwater is contaminated with elevated concentrations of benzene, DIPE and BTEX at depths greater than 50ft bgs. DIPE was consistently detected in offsite soil and is a fuel additive associated with Shell Oil. The offsite soil and groundwater samples were collected downgradient from Shell Oil Pipelines. The site meets the low-threat UST closure requirements (SWRCB 2012).

The Groundwater Investigation Work Plan (Mearns Consulting LLC, April 29, 2015) is in conformance with CCR title 23, sections 2720-2727. The previously submitted scaled facility figure (Mearns Consulting LLC, May 14, 2014 and Mearns Consulting LLC December 5, 2014) and summary data table (Mearns Consulting LLC, March 2, 2011) also are in conformance with CCR title 23.

The site is surrounded by pipelines below East Willow Street, the alleys contiguous north and east of the site and below Temple Avenue. Crimson Pipeline’s 6-inch pipeline below Temple Avenue leaked in November 2014

(Mearns Consulting LLC, December 5, 2014) contributing to soil contamination and potentially groundwater contamination.

There have been two pipeline releases of which the City of Long Beach is aware of pipelines that are contiguous to or beneath the Fleet Services site. Based on the emergency response actions for both releases it is common practice for the pipeline companies to leave high levels of contaminants in place and backfill for safety reasons.

Aboveground surface tanks owned by Shell Oil along Redondo Avenue are located south of East Willow Street, upgradient, less than 400 yards from the Fleet Services site. Signal Hill Petroleum, Inc. owns and operates a petroleum processing facility at Combella Dr., south of East Willow Street, also upgradient, less than 400 yards from the Fleet Services site (Mearns Consulting LLC, December 5, 2014).

The body of evidence indicates the most likely sources of contaminants in groundwater are the pipelines owned and operated by Shell (1 12-inch pipeline conveying gasoline), Chevron (1 4-inch pipeline conveying gas/oil), Crimson (1 6-inch pipeline and 1 10-inch pipeline both conveying crude), and Tesoro (1 8-inch pipeline, 1 10-inch pipeline and 1 12-inch pipeline conveying nitrogen; 1 10-inch pipeline conveying transmix and 1 12-inch pipeline conveying alkate) that encircle and diagonally cross the 22-acre site (Mearns Consulting LLC, December 5, 2014).

The City of Long Beach is not the responsible party under CCR title 23 for groundwater contamination attributable to oil companies and pipeline companies.

**8. A statement that copies of the petition have been sent to the Regional Water Board and discharger if different from the petitioner -** The LARWQCB and the City of Long Beach have received copies of the petition via GeoTracker and email, respectively.

**9. A statement that the issues raised in the petition were presented to the Regional Water Board before the Regional Water Board acted, or an explanation of why the petitioner could not raise those objections before the regional board -** The issues raised in the petition were presented to the LARWQCB in the GeoTracker submittal Response to Notice of Violation August 13, 2015 (Mearns Consulting LLC, September 8, 2015).

Should you have any questions, please do not hesitate to contact me at 310.403.1921.

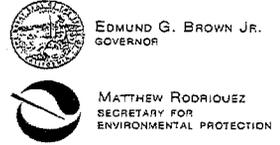
Sincerely,


Susan L. Mearns, Ph.D.

**Mearns Consulting LLC**

enclosure: LARWQCB NOV 8-13-15  
cc: Paula Rasmussen, LARWQCB  
David Bjostad, LARWQCB  
Ara Maloyan, City of Long Beach Department of Public Works



EDMUND G. BROWN JR.  
GOVERNOR

MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

Los Angeles Regional Water Quality Control Board

August 13, 2015

Mr. Ara Maloyan  
City of Long Beach Public Works  
333 West Ocean Boulevard, 9<sup>th</sup> Floor  
Long Beach, CA 90802

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
CLAIM NO. 7014 2870 0001 4537 7781

**NOTICE OF VIOLATION - FAILURE TO TAKE CORRECTIVE ACTION IN  
RESPONSE TO UNAUTHORIZED UNDERGROUND STORAGE TANK RELEASE  
PURSUANT TO HEALTH AND SAFETY CODE SECTION 25296.10 AND TITLE 23,  
CHAPTER 16, CALIFORNIA CODE OF REGULATIONS, SECTIONS 2720-2727  
CITY OF LONG BEACH FLEET SERVICES  
2929 EAST WILLOW STREET, LONG BEACH,  
(CASE NO. 908061361) (PRIORITY B-2 SITE)**

Dear Mr. Maloyan:

The California Regional Water Quality Control Board (Regional Board), Los Angeles Region is the public agency with primary responsibility for the protection of groundwater and surface water quality for all beneficial uses within major portions of Los Angeles and Ventura Counties, including the referenced site (Site).

Pursuant to Health and Safety Code section 25296.10, the City of Long Beach Public Works (City or "you") is required to take corrective action (i.e., Preliminary Site Assessment, Soil and Water Investigation, Corrective Action Plan Implementation, and/or Verification Monitoring) to ensure protection of human health, safety, and the environment. Corrective action requirements are set forth in California Code of Regulations (CCR), title 23, sections 2720 through 2727.

On November 10, 2014 the Executive Officer issued the City a directive requiring:

1. A Work Plan to install monitoring wells to assess and delineate the extent of groundwater impacts beneath the Site, due by **January 15, 2015**.
2. A scaled facility figure showing the location of aboveground storage tanks (ASTs) or other aboveground potential sources at the facility that contain or historically contained or used fuel and other petroleum products, due by **January 15, 2015**.
3. A summary data table showing all historical soil sampling data, or a summary table of non-residual soil samples to supplement the Residual Soil Concentrations table provided in a letter report dated May 9, 2012. The table shall indicate the full date of sampling (day, month, year) and shall be accompanied by a figure showing all historical soil sampling locations, or a copy of historical figures that show historical sampling locations. The summary data table was due by **January 15, 2015**.
4. A semi-annual groundwater monitoring report for the second half of 2014, due by **January 15, 2015**.

CHARLES STRINGER, CHAIR | SAMUEL UNGER, EXECUTIVE OFFICER

320 West 4th St., Suite 200, Los Angeles, CA 90013 | [www.waterboards.ca.gov/losangeles](http://www.waterboards.ca.gov/losangeles)

On March 17, 2015 the Assistant Executive Officer issued the City a Notice of Violation (NOV) for failing to submit the reports listed above. The NOV required you to submit the delinquent reports immediately.

On April 29, 2015 the Regional Board received a Work Plan. Regional Board staff reviewed the Work Plan and determined it to be deficient because it fails to characterize the groundwater under the entire Site as required. The scaled facility figure, summary data table, and groundwater monitoring report have not been received by the Regional Board to date.

**YOU ARE HEREBY NOTIFIED** that you are in violation of Health and Safety Code section 25296.10, California Code of Regulations (CCR), title 23, section 2720 through 2727 by failing to provide an adequate Work Plan, scaled facility figure, summary data table, and groundwater monitoring report by the January 15, 2015 due date.

You are required to submit an adequate Work Plan to include groundwater characterization under the entire Site, a scaled facility figure, summary data table, and groundwater monitoring report **immediately**.

Pursuant to section 25299(d) of the Health and Safety Code, any person who violates any 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. A civil penalty may be imposed by civil action pursuant to section 25299(d)(2) or imposed administratively by the Regional Board pursuant to Water Code sections 13323 through 13328. The Regional Board may also request that the Attorney General seek judicial civil liabilities or injunctive relief pursuant to CWC sections 13262, 13264, 13304, 13331, 13340 and 13386. The Regional Board reserves its right to take any further enforcement action authorized by law.

Compliance with the action set forth in this Notice of Violation does not affect the Regional Board's authorization to take enforcement action against you for any of the violations noted herein.

If you have any questions, please contact Regional Board staff: Dr. Yue Rong at (213) 576-6710 or by email at [yue.rong@waterboards.ca.gov](mailto:yue.rong@waterboards.ca.gov); Dr. Weixing Tong at (213) 576-6715 or by email at [weixing.tong@waterboards.ca.gov](mailto:weixing.tong@waterboards.ca.gov); or Mr. Dave Bjostad at (213) 576-6712 or by email at [dave.bjostad@waterboards.ca.gov](mailto:dave.bjostad@waterboards.ca.gov).

Sincerely,

  
Paula Rasmussen  
Assistant Executive Officer

Enclosure: *Regional Board Notice of Violation dated March 17, 2015*

Mr. Ara Maloyan  
City of Long Beach Fleet Services facility  
2929 E. Willow St. UST case

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August 13, 2015

cc: Micah Reich, Underground Storage Tank Cleanup Fund, SWRCB  
Nelson Kerr, City of Long Beach Department of Health & Human Services  
Carmen Piro, City of Long Beach Department of Health & Human Services  
Phuong Ly, Water Replenishment District of Southern California  
Mike Conway, City of Long Beach Business and Property Development  
Susan Mearns, Mearns Consulting LLC