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5 Attorneys for GORDON HABITAT, LLC and ED SANTIAGO

6  
7 **STATE OF CALIFORNIA**  
8 **STATE WATER RESOURCES CONTROL BOARD**  
9

10 In Re Investigative Order No. R4-2017-0164;  
650 North Hoover Street, Los Angeles,  
11 California

**GORDON HABITAT, LLC AND ED  
SANTIAGO PETITION FOR REVIEW OF  
INVESTIGATIVE ORDER NO. R4-2017-  
0164; REQUEST FOR STAY;  
DECLARATIONS IN SUPPORT  
THEREOF**

California Water Code § 13320

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16 Pursuant to Water Code Section 13320 and California Code of Regulations, Title 23, Section  
17 2050, et seq., Gordon Habitat, LLC (“GH”) and Mr. Ed Santiago (“Santiago”) hereby respectfully  
18 submit this Petition for Review (“Petition”) to the State Water Resources Control Board (“State  
19 Board”) for set aside and stay of the Investigative Order No. R4-2017-0164 (“Order”) dated  
20 September 14, 2017, issued by the Executive Officer of the Los Angeles Regional Water Quality  
21 Control Board (“Regional Board”) with regard to the 650 North Hoover Street, Los Angeles,  
22 California site (“Site”) as to recipients GH and Santiago. Specifically, Santiago requests that he be  
23 removed from the Order, and GH requests that it be identified as secondarily liable to the named  
24 discharger, Sophia Mei (“Mei”), who is also a recipient of the Order. A true and correct copy of the  
25 Order is attached hereto as Exhibit 1.

26 **1. Name, address, telephone number and e-mail address of the petitioner.**

27 Ed Santiago  
28 10181 Johanna Avenue  
Sundland, California 91040

1 Gordon Habitat, LLC  
2 1617 ½ Victory Boulevard  
3 Glendale, California 91201

4 Petitioners can be contacted through their counsel of record:

5 Brian D. Langa, Esq.  
6 Demetriou, Del Guercio, Springer & Francis, LLP  
7 915 Wilshire Boulevard, Suite 2000  
8 Los Angeles, California 90017  
9 Phone: (213) 624-8407  
10 Fax: (213) 624-0174  
11 Email: blanga@ddsffirm.com

12 **2. The action or inaction of the Regional Board being petitioned.**

13 The Regional Board action for which this Petition is submitted concerns the issuance of the  
14 Order and the contents and portions of the requirements set forth in the Order. Santiago and GH  
15 request set aside and stay of certain findings in the Order and that portion of the Order directing GH  
16 and Santiago to perform work, i.e., Finding paragraph 4 on page 3 stating Santiago is a person  
17 responsible for discharge of waste, and Order preamble at page 4 stating Santiago must perform any  
18 work and that GH must perform work notwithstanding it is secondarily liable to Mei. The Order  
19 should state that GH must perform work only to the extent Mei has defaulted on her obligations.  
20 The Order also notes two previously recognized dischargers Mr. Rodolfo and Mrs. Luz Lopez, but  
21 then states they are no longer named given Mr. Lopez is deceased. The Order should include Ms.  
22 Lopez and the estate of Mr. Lopez.

23 **3. The date the Regional Water Board acted, refused to act, or was requested to**  
24 **act.**

25 The date of the Regional Board's action, which is subject to review pursuant to the Petition  
26 is October 25, 2017, the date Petitioners received the September 14, 2017 Order issued by the  
27 Executive Officer of the Regional Board. Petitioners note the Order was improperly served and  
28 reserve all rights to challenge the Order on those grounds. Out of an abundance of caution,  
Petitioners have filed this Petition within 30 days of receipt of the Order, but procedurally, the  
Order is not effective as it was never properly served on Petitioners. Should this Petition be denied

1 as untimely, then Petitioners reiterate again that the Order was improperly served and in a manner  
2 such that Petitioners did not receive the Order timely, and Petitioners will await proper service  
3 before re-filing the Petition.

4 **4. A statement of the reasons the action or inaction was inappropriate or**  
5 **improper.**

6 The Order is issued to Gordon Habitat, LLC, Mr. Ed Santiago, and Ms. Sophia Mei. The  
7 Order follows a March 8, 2017 Notice of Violation (“NOV”) issued to Ms. Sophia Mei and Mr.  
8 Rodolfo and Mrs. Luz Lopez (“Lopez”) for failing to comply with a June 27, 2008 Order (“First  
9 Order”). (Attached as Exhibit 2 is a copy of the NOV and as Exhibit 3 is a copy of the First Order.)  
10 The First Order was issued to the Lopezes and Mei, then called Ms. Mei De Chiu Xul Fei. At no  
11 point was GH or Santiago issued the First Order or made aware of the NOV until they received the  
12 Order.

13 As set forth in the First Order, the Lopezes were the operators of a dry cleaner, Jesse  
14 Cleaners, which operated at the Site. Further, Mei was the owner during the period of the dry  
15 cleaner operations. (Ms. Mei actually owned the site since 1996.) The Order explains that the  
16 Lopezes were removed from the Order because Mr. Rodolfo Lopez is deceased, but there is no  
17 explanation or update regarding Ms. Luz Lopez or the estate of Mr. Lopez. The Order states  
18 Santiago purchased the site from Mei in the Fall of 2010 and then transferred it shortly thereafter to  
19 GH. Based on the written documentation, it appeared Mei had accepted responsibility for  
20 environmental work at the site given Mei had submitted a workplan on October 25, 2008 in  
21 response to the First Order. (Further, there appears to have been a DTSC Voluntary Cleanup  
22 Agreement between DTSC and Ms. Mei with a contemplated execution date of September 2007,  
23 although it is unclear if Ms. Mei ever actually signed such agreement. Attached as Exhibit 4 is a  
24 copy of this Agreement.) RWQCB did not approve the workplan until two and one-half years later,  
25 May 17, 2011, at which point the property was owned by GH, although Santiago and GH had no  
26 notice or knowledge of the RWQCB approval of Mei’s workplan.

27 The matter then appeared to go unaddressed another six years until the March 8, 2017 NOV  
28 to Mei and the Lopezes. RWQCB issued an NOV almost a decade after Mei submitted a workplan.

1 RWQCB should now be pursuing Mei in follow up to the NOV; instead RWQCB appears to have  
2 added Santiago and GH to a new Order.

3 In any event, there have been no dry cleaner operations during the period Santiago or GH  
4 owned the Site. Instead, the Site has been occupied by a restaurant and a yoga studio. The Order  
5 and its contents came as a surprise to GH. GH has been significantly damaged by the untimely  
6 failure to compel Mei to perform work or notify the Site owner of the status.

7 Water Code Section 13267 applies to any person who has discharged, discharges, or is  
8 suspected of having discharged or discharging waste. This does not encompass Santiago, and it was  
9 incorrect to issue the Order to him. *Petition of Wenwest, Inc.*, Order WQ 92-13, is directly on point.  
10 Therein, Wendy's International ("Wendy's") was issued an Order; Wendy's was a former  
11 landowner who purchased the site briefly to convey it to a franchisee, and whose ownership interest  
12 did not cover the time when the discharge activity took place. The State Board held identifying  
13 Wendy's as a discharger was improper, and ordered that the Order be amended to remove Wendy's  
14 entirely. The Board held, "No order issued by this Board has held responsible for a cleanup a  
15 former landowner who had no part in the activity which resulted in the discharge of the waste and  
16 whose ownership interest did not cover the time during which that activity was taking place." *Id.* at  
17 p. 5. As with Wendy's, Santiago owned the property for a very brief time for conveyance to GH,  
18 and to the limited extent Santiago even had any knowledge of the environmental condition of the  
19 Site, documents indicated Mei was either addressing it with regulatory agencies and/or the  
20 investigation and remediation was complete.

21 Additionally, GH should be identified in the Order as secondarily liable to Mei, Ms. Lopez,  
22 assuming Ms. Lopez is not deceased, and the estate of Mr. Lopez. Again, *Wenwest* is directly on  
23 point. Therein, the current owner, Susan Rose, also appealed the Order. The State Board stated that  
24 a current owner could be included as a responsible party, but the Regional Board erred in failing to  
25 acknowledge the secondary liability status of the current owner. Citing several prior cases, the  
26 State Board explained a blameless current owner should be put in a position where it would have no  
27 obligations under the order unless and until the other parties defaulted on their obligations. The  
28 opinion directed that the order therein be redrafted to reflect that Ms. Rose be listed as a secondarily

1 responsible party. Here, the Order should be redrafted to clarify GH is secondarily liable to Mei,  
2 Ms. Lopez, and the estate of Mr. Lopez, and GH would have no obligations under the order unless  
3 and until the other parties defaulted on their obligations.

4       The Order is issued under Water Code §13267(b) which is directed at a person who has  
5 discharged, discharges, or is suspected of having discharged or discharging waste that could affect  
6 the waters of the state. RWQCB is required to provide a written explanation identifying the  
7 evidence that supports requiring Santiago and GH to provide the reports. Evidence means any  
8 relevant evidence upon which responsible persons are accustomed to rely in the conduct of serious  
9 affairs. Water Code §13267(e). The only evidence cited by the RWQCB in the Order is the alleged  
10 detections of PCE and TCE that predate GH and Santiago’s involvement at the site, and this is not  
11 evidence that Santiago or GH discharged waste. The Order concludes that Santiago is a party  
12 responsible for suspected unauthorized discharges because he owned the property for a short period  
13 of time, albeit well after dry cleaning operations ceased, well after PCE and TCE were discovered,  
14 and well after RWQCB had already issued the First Order to Mei and the Lopezes. This conclusory  
15 statement is not evidence that GH or Santiago discharged waste.

16       **5. How the petitioner is aggrieved.**

17       Santiago and GH would be aggrieved as they would be identified as a responsible party for  
18 contamination to which it has no connection. This is of especially significant concern as Santiago  
19 and GH could find itself dragged into a dispute regarding regional contamination although they  
20 have no responsibility whatsoever for any such contamination. Further, GH and Santiago would  
21 incur significant expense to prepare and implement a workplan as set forth in the Order. Had  
22 RWQCB timely pursued Mei in 2008 when she had submitted a workplan, then GH would also not  
23 have been so damaged as the owner of an impacted property. Instead, RWQCB issued an NOV  
24 almost a decade after Mei submitted a workplan and then failed to further enforce the NOV. It is  
25 inequitable to expect Santiago and GH to incur further cost and devotion of resources for work that  
26 is another’s responsibility.

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1           **6. The action the petitioner requests the State Water Board to take.**

2           Petitioners respectfully request the State Board determine that the RWQCB's action in  
3 issuing the Order was incorrect and to vacate the Order as it pertains to Santiago pursuant to this  
4 Petition and in accordance with the applicable law and to modify the Order as it pertains to GH to  
5 reflect GH is secondarily liable to Mei, Ms. Lopez, and the estate of Mr. Lopez.

6           **7. A statement of points and authorities for any legal issues raised in the petition,**  
7           **including citations to documents or hearing transcripts that are referred to.**

8           Petitioners reserve the right to submit a detailed statement of points and authorities. As  
9 noted above, there is no evidence supporting a conclusion that Santiago or GH discharged PCE or  
10 TCE at the property. Petitioners are aware of RWQCB interpretation that a present owner is  
11 potentially "secondarily liable" to the actual discharger should the primary discharger fail to comply  
12 with its responsibilities, but the analysis underlying this interpretation should not apply to GH given  
13 Mei was identified and pursued by RWQCB prior to GH acquiring the property. Purchasers rely on  
14 RWQCB to first pursue the responsible parties with existing orders outstanding; if an owner is  
15 pursued in these circumstances, brownfields would go under-utilized. The Water Code sets a high  
16 standard and requires RWQCB set forth evidence that Santiago or GH discharged waste of the kind  
17 detected in the subsurface.

18           **8. A statement that copies of the petition have been sent to the Regional Water**  
19           **Board and to the discharger, if different from the petitioner.**

20           A true and correct copy of this Petition is sent to Mr. Ryan Vitug, Engineering Geologist,  
21 and Mr. Samuel Unger, Executive Officer of the RWQCB, via e-mail and U.S. First Class Mail on  
22 May 18, 2016.

23           **9. A statement that the issues raised in the petition were presented to the regional**  
24           **board before the regional board acted.**

25           Petitioners presented the issues raised in the Petition to the Regional Board. On or about  
26 November 15, 2017, Petitioners' representative contacted counsel listed on the Order and counsel  
27 listed on the NOV; on November 17, 2017 Petitioner provided an e-mail setting forth the above.  
28 (Langa Decl. ¶3.) The matter could not be raised sooner due to improper service and delays in

1 Petitioners seeking to understand the history of which it had never previously been included.  
2 Specifically, the Order indicated it was certified mail, return receipt requested to GH at 1617 ½  
3 Victory Boulevard, Glendale, California and to Santiago at 1024 N. Virgil Avenue, Los Angeles,  
4 California. Santiago has not resided at 1024 N. Virgil Avenue for four years, and a neighbor at  
5 1020 N. Virgil signed for and received the Order. This neighbor has health and wellness issues, and  
6 although unclear when he received it, he provided to Santiago the week of October 23, 2017  
7 Santiago promptly contacted a consultant to advise, and this consultant promptly called RWQCB to  
8 learn about the site. Thereafter, Santiago contacted counsel. It is still unclear what happened to the  
9 Order allegedly mailed to 1617 ½ Victory Boulevard, Glendale, California, and GH has asked  
10 RWQCB for a copy of the return receipt. In any event, records of the consultant contacting  
11 RWQCB verify the untimely receipt of the Order to Santiago. Frankly, RWQCB should not rely on  
12 questionable mail service to issue an Order out of the blue without an attempt to contact the  
13 recipient in some other manner. Again, GH knew nothing of this history or the March NOV; the  
14 first it learned of this was when the neighbor provided a copy of the Order.

15 Petitioners are optimistic this matter can be resolved prior to this Petition being heard, after  
16 which point the Petitioners would dismiss the Petition. Still, given the late notice of the Order,  
17 Petitioners out of caution had to quickly submit the Petition timely based on date of receipt. Should  
18 any assert this Petition is untimely, Petitioners reserve all rights to challenge the Order on other  
19 bases, including but not limited to defective or improper service of the Order on Petitioner.

20 **REQUEST FOR STAY**

21 Pursuant to the Water Code Section 13321 and Title 23, California Code of Regulations  
22 Section 2053, Petitioners respectfully request a set aside of the Order and stay of the Regional  
23 Board's enforcement of the Order for the reasons set forth above. As set forth above, including in  
24 section 5, there will be substantial harm to the petitioner if it is required to proceed as an unfairly  
25 designated responsible party. In contrast, the property has been in its present condition likely for a  
26 decade, and RWQCB issued a First Order in 2008 without taking further enforcement action until  
27 the NOV in 2017, so there will be no substantial harm to other interested persons and to the public  
28 interest if a stay is granted. Further, as indicated by the RWQCB's limited statements supporting

1 potential responsibility and further set forth above, there are questions of fact or law regarding the  
2 disputed action.

3 DATED: November 17, 2017

DEMETRIOU, DEL GUERCIO, SPRINGER &  
FRANCIS, LLP

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6 By:   
7 Brian D. Langa  
8 Attorneys for Ed Santiago and Gordon Habitat,  
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Demetriou, Del Guercio, Springer & Francis, LLP  
915 Wilshire Boulevard, Suite 2000  
Los Angeles, California 90017

**DECLARATION OF BRIAN D. LANGA**

I, BRIAN D. LANGA, hereby declare as follows:

1. I am an attorney licensed to practice law in the State of California. I am a partner with the law firm of Demetriou, Del Guercio, Springer & Francis, LLP, counsel for Petitioners Ed Santiago and Gordon Habitat, LLC (“Petitioners”). I make this Declaration in support of Petitioners’ Request for Stay.

2. Except as to those alleged based on information and belief, which I believe them to be true, I have personal knowledge of facts set forth in this declaration, and if called upon, could and would testify competently to those facts.

3. On November 15, 2017, I contacted David Boyers, Office of Enforcement, State Water Resources Control Board. Given the legal nature of some of the issues, I felt it prudent to reach out to counsel first. Mr. Boyers was listed as a cc on the March 8, 2017 Notice of Violation. Mr. Boyers called me back on November 16, 2017. Through discussion, he explained my call should probably be directed to Ms. Frances McChesney as Ms. McChesney was the cc at Office of Chief Counsel, State Board, on the Order. I called Ms. McChesney, and her outgoing message stated she was on retirement since November 3, 2017 and would not be returning calls.

4. On November 17, 2017, I submitted an e-mail to the Regional Water Quality Control Board requesting RWQCB remove Santiago from Investigative Order No. R4-2017-0164 (the “Order”) dated September 17, 2017. Attached as Exhibit 5 and incorporated herein by reference is a true and correct copy of the e-mail.

5. The Executive Officer of the Regional Board issued the Investigative Order No. R4-2017-0164 with regard to the Site. A true and correct copy of the Order is attached as Exhibit 1.

6. A true and correct copy of the March 8, 2017 Notice of Violation (“NOV”) issued to Ms. Sophia Mei and Mr. Rodolfo and Mrs. Luz Lopez for failing to comply with a June 27, 2008 Order is attached as Exhibit 2.

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7. A true and correct copy of the June 27, 2008 Order issued to Ms. Sophia Mei and Mr. Rodolfo and Mrs. Luz Lopez is attached as Exhibit 3.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on November 17, 2017, at Los Angeles, California.

  
\_\_\_\_\_  
BRIAN D. LANGA

**DECLARATION OF ED SANTIAGO**

I, ED SANTIAGO, hereby declare as follows:

1. I am an individual residing at 10181 Johanna Avenue, Sunland, California 91040. I make this Declaration in support of Petitioners' Request.

2. Except as to those alleged based on information and belief, which I believe them to be true, I have personal knowledge of facts set forth in this declaration, and if called upon, could and would testify competently to those facts.

3. I purchased the Property on or about December, 2010. I thereafter transferred the Property to Gordon Habitat, LLC in 2011.

4. When I purchased the Property, it was my understanding that to the extent any environmental work needed to be done, Ms. Sophia Mei or the dry cleaner operators would be performing that work. I based that on the understanding the Regional Water Quality Control Board had issued an Order to them. Ms. Mei had also shown me a Voluntary Cleanup Agreement between her and DTSC, although I realize now it was unsigned. Attached as Exhibit 4 is a true and correct copy of that document.

5. I had no knowledge of a March 8, 2017 Notice of Violation sent to Ms. Mei and the Lopezes.

6. I received a copy of the September 14, 2017 Order on or about the week of October 23, 2017. Although the cover letter to the Order stated it was sent certified mail, return receipt requested, I did not receive it. The 1024 North Virgil address is an address I have not occupied for years. The occupant at 1020 North Virgil must have signed for the letter, although he does not recall when he did. He kept it and provided it to me the week of October 23, 2017. The Gordon Habitat, LLC address on Victory Boulevard is acceptable for that entity, but I do not know what happened to the Order that was apparently sent there. The first I became aware of the Order is when the occupant at 1020 North Virgil provided it to me.

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on November 17, 2017, at Los Angeles, California.

ED SANTIAGO



Demetriou, Del Guercio, Springer & Francis, LLP  
915 Wilshire Boulevard, Suite 2000  
Los Angeles, California 90017

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**EXHIBITS IN SUPPORT OF PETITION FOR REVIEW OF INVESTIGATIVE  
ORDER NO. R4-2017-0164**

- Exhibit 1      Investigative Order No. R4-2017-0164
- Exhibit 2      March 8, 2017 Notice of Violation issued to Ms. Sophia Mei and Mr. Rodolfo and  
Mrs. Luz Lopez
- Exhibit 3      June 27, 2008 Order issued to Ms. Sophia Mei and Mr. Rodolfo and Mrs. Luz Lopez
- Exhibit 4      DTSC Voluntary Cleanup Agreement between DTSC and Ms. Mei with a  
contemplated execution date of September 2007
- Exhibit 5      November 16, 2017 E-mail from Brian Langa to Los Angeles Regional Water  
Quality Control Board

# **EXHIBIT 1**

Los Angeles Regional Water Quality Control Board

September 14, 2017

Gordon Habitat, LLC  
(c/o Mr. Ed Santiago)  
1617 ½ Victory Boulevard  
Glendale, CA 91201

Mr. Ed Santiago  
1024 N. Virgil Avenue  
Los Angeles, CA 90029

Ms. Sophia Mei  
(c/o Mr. Peter Chiu)  
11426 Freer Avenue  
Arcadia, CA 91006

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
7016 1970 0000 9835 9612

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
7017 1450 0002 1559 0409

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
7016 0750 0000 3359 3713

**SUBJECT: AMENDED REQUIREMENT FOR A TECHNICAL REPORT AND  
QUARTERLY GROUNDWATER MONITORING REPORTS PURSUANT  
TO CALIFORNIA WATER CODE SECTION 13267 ORDER NO. R4-2017-  
0164**

**SITE: FORMER JESSE CLEANERS, 650 NORTH HOOVER STREET,  
LOS ANGELES, CALIFORNIA 90004 (SITE CLEANUP NO. 1232 AND  
SITE ID NO. 2040328)**

Dear Mr. Santiago and Ms. Mei:

The California Regional Water Quality Control Board, Los Angeles Region (Regional Board) 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. To accomplish this, the Regional Board oversees the investigation and cleanup of discharges of waste adversely affecting waters of the State, authorized by the Porter-Cologne Water Quality Control Act (Water Code, §§13000 et seq.).

On June 27, 2008, the Regional Board issued a Water Code Section 13267 Order requiring Ms. Sophia Mei (Mei, former property owner) and Mr. Roldolfo Lopez (Lopez, former operator) to conduct an environmental investigation at Jesse Cleaners. Regional Board staff reviewed the Site Assessment Workplan (Workplan), submitted on Mei's behalf by JMK Environmental Solutions, Inc. on October 25, 2008, for the referenced Site. The Workplan was approved by Regional Board

September 14, 2017

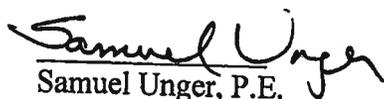
staff on May 17, 2011; however, the Workplan was not implemented by Mei or Lopez. The Regional Board issued a Notice of Violation (NOV) on March 8, 2017, notifying Mei and Lopez to comply with the Water Code Section 13267 Order. The NOV for Mei was returned as undeliverable because of an outdated address; therefore, on April 10, 2017, the NOV was reissued to Mei's current address. On June 30, 2017, Mr. Steven Imhoof, Mei's attorney, submitted a response to the NOV, notifying the Regional Board that the property was sold to Mr. Ed Santiago during the Fall of 2010. On July 17, 2017, Maria Lopez, daughter of Rodolfo Lopez, notified the Regional Board that Lopez is deceased as of July 15, 2017.

Regional Board staff reviewed the information provided by Mei and Ms. Maria Lopez. As a result, the Order has been amended to remove Lopez from the Order and to include the former property owner, Mr. Ed Santiago, and current property owner, Gordon Habitat LLC, as responsible parties. The Regional Board has determined that, to protect the beneficial use of the waters beneath the Site, the implementation of the Workplan as approved and subsequent technical report and quarterly groundwater monitoring reports are required to fully delineate the extent of volatile organic compounds (VOCs) in the groundwater and to evaluate the conditions beneath the Site.

The following constitutes an amendment to the Water Code Section 13267 Order originally dated June 27, 2008: 1) the removal of Lopez and the addition of Gordon Habitat LLC and Mr. Ed Santiago as responsible parties; 2) the requirement for a Human Health Risk Assessment workplan upon order of the Executive Officer; 3) the requirement for a quarterly groundwater monitoring and sampling program for all wells at the Site. Enclosed is an Amended Regional Board Order requiring, pursuant to Water Code section 13267, you (Gordon Habitat LLC, Mr. Ed Santiago, and Ms. Sophia Mei) to provide a technical report upon implementation of the Workplan and to provide subsequent quarterly groundwater monitoring reports for the Site.

**If you have any questions regarding this letter, please contact Mr. Ryan Vitug at (213) 576-6663 ([ryan.vitug@waterboards.ca.gov](mailto:ryan.vitug@waterboards.ca.gov)) or Ms. Thizar Tintut-Williams, Unit Chief, at (213) 576-6723 ([thizar.williams@waterboards.ca.gov](mailto:thizar.williams@waterboards.ca.gov)).**

Sincerely,

  
Samuel Unger, P.E.  
Executive Officer

Enclosure: California Water Code Section 13267 Order No. R4-2017-0164

cc: Frances McChesney, Office of Chief Counsel, State Water Resources Control Board  
Shu-Fang Peng Orr, Division of Drinking Water, State Water Resources Control Board  
Cyrus Rangan, Los Angeles County Department of Health  
Jason Weeks, Water Replenishment District of Southern California  
Joseph Legaspi, Central Basin Municipal Water District  
Tammy Hierlihy, Central Basin Municipal Water District  
Steven Imhoof, Imhoof Law  
Maria Lopez

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**Los Angeles Regional Water Quality Control Board**

**INVESTIGATIVE ORDER NO. R4-2017-0164**

**CALIFORNIA WATER CODE SECTION 13267  
ORDER TO PROVIDE A TECHNICAL REPORT AND QUARTERLY  
GROUNDWATER MONITORING REPORTS**

**DIRECTED TO  
GORDON HABITAT LLC,  
MR. ED SANTIAGO,  
MS. SOPHIA MEI**

**FORMER JESSE CLEANERS  
650 N. HOOVER STREET, LOS ANGELES, CA 90004  
SCP NO. 1232; SITE ID NO. 2040328**

**AMENDED  
ON  
SEPTEMBER 14, 2017**

The California Regional Water Quality Control Board, Los Angeles Region (Regional Board) makes the following findings and issues this Order pursuant to California Water Code section 13267 requiring Gordon Habitat LLC, Mr. Ed Santiago (Santiago), and Ms. Sophia Mei (Mei) to further investigate or assess the site located at 650 N. Hoover Street, Los Angeles, CA 90004 (Site).

1. According to documents in the file at the Regional Board, the former Jesse Cleaners facility operated at the Site in the City of Los Angeles, bounded by N. Hoover Street and Lucille Avenue. The primary business operation at the Site was a dry cleaner, which operated from 1995 through 2008. Due to this historical use at the Site, soil and groundwater underlying the Site has been impacted by volatile organic compounds (VOCs), primarily Tetrachloroethylene (PCE) and Trichloroethylene (TCE), a by-product of PCE.
  - 1.1. On June 27, 2008, the Regional Board issued an Order pursuant to Water Code section 13267 to Mei, the then owner of the property, and Mr. Rodolfo Lopez (Lopez), the former dry cleaner operator, to conduct an environmental investigation at Jesse Cleaners (2008 Order - Attachment A). The 2008 Order required these persons to: 1) Conduct a

Phase I Investigation that evaluates source contamination, which entails identifying potential source areas and a list of chemicals used, stored, or disposed at the Site; 2) Develop a workplan for soil, soil vapor, and groundwater investigation to characterize all chemicals of concern originating from the Site.

2. Water Code section 13267(b)(1) states, in part:

“In conducting an investigation specified in subdivision (a), 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, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste outside of its region that could affect the quality of waters 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 reports 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.”

3. The Regional Board has evidence in the Site Assessment Workplan (Workplan) prepared by JMK Environmental Solutions, Inc. on October 25, 2008, on behalf of Mei supporting the need for an investigation. The Workplan indicates that in 2006, two limited subsurface investigations were conducted at the Site: 1) Installation of four soil borings to 10 feet below ground surface (bgs) by Western Environmental Engineers Company, and 2) Installation of five additional soil borings to 25 feet bgs by JMK. The subsurface investigations confirmed that the soil beneath the Site is impacted with chlorinated VOCs, specifically PCE and TCE. Soil concentrations sampled on March 13, 2006, for PCE and TCE were detected as high as 1,350,085 micrograms per kilogram ( $\mu\text{g}/\text{Kg}$ ) and 1,834  $\mu\text{g}/\text{Kg}$ , respectively. Groundwater samples collected on February 2007 from monitoring wells immediately downgradient from the Site indicated PCE concentrations as high as 20,200 micrograms per liter ( $\mu\text{g}/\text{L}$ ) and 1,060  $\mu\text{g}/\text{L}$ . For reference, the water quality objective necessary to protect drinking water for PCE is 5  $\mu\text{g}/\text{L}$ . The impact to soil, soil gas, and groundwater has not been fully delineated. Therefore, the Workplan proposed the following: 1) Conduct a soil gas survey inside the building by installing eight vapor probes advanced to 5 feet bgs; 2) Installation of a groundwater monitoring well in the area where the dry cleaning machine operated; 3) Installation of two groundwater monitoring wells outside the building where drums were stored. The Workplan was subsequently approved by the Regional Board with additions on

May 17, 2011, and a due date of July 27, 2011, was set for the implementation of the Workplan and submittal of a technical report (Attachment B). However, no response from Mei was received.

- 3.1. The Regional Board issued a Notice of Violation (NOV) on March 8, 2017, notifying Mei and Lopez to comply with the Investigative Order pursuant to Water Code section 13267 dated June 27, 2008, implement the Workplan as approved, and submit a technical report upon completion (Attachment C). The NOV for Mei was returned as undeliverable because of an outdated address; therefore, on April 10, 2017, the Regional Board reissued the NOV to Mei's current address.
- 3.2. Additionally, the Regional Board has evidence in the case file regarding the Los Angeles Department of Water and Power (LADWP) Streetlight Maintenance Headquarters (SCP No. 0803)<sup>1</sup> site, a site immediately adjacent to and downgradient from the Former Jesse Cleaners. The *Second Quarter 2017 Groundwater Monitoring Report* submitted by Kleinfelder West, Inc. on behalf of LADWP indicates that groundwater downgradient from the Jesse Cleaners' Site is impacted with PCE and TCE. A sampling event in April 2017 indicated PCE and TCE concentrations at wells immediately downgradient from the Site were as high as 266 µg/L and 9.42 µg/L, respectively.
4. This Order identifies Gordon Habitat LLC, Santiago, and Mei as the persons responsible for discharges of waste identified in paragraphs 1, 2, and 3. Mei owned the property when the dry cleaner operated during 2002 through 2008. Santiago purchased the property from Mei during the Fall of 2010, and therefore owned the property on which the waste has discharged. In 2011, Santiago transferred ownership of the property to Gordon Habitat LLC. Gordon Habitat LLC currently owns the property on which the waste has discharged, and Santiago is the agent for service of process of Gordon Habitat LLC. Lopez, operator of the dry cleaner from 2004 through 2008, is deceased as of July 15, 2017. Due to this, Lopez is now removed from the Order. The removal of Lopez and the addition of Gordon Habitat LLC and Santiago is an amendment to a former Order, which named Mei and Lopez as dischargers.
5. This Order requires the persons named herein to prepare and submit a technical report and quarterly groundwater monitoring reports in order to fully delineate the VOCs in groundwater that originated from the Site and to evaluate the conditions at the Site. You are expected to submit complete reports as required by this Order. The Regional Board may

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<sup>1</sup> The Regional Board has a file for the Los Angeles Department of Water and Power Streetlight Maintenance Headquarters site with the quarterly groundwater monitoring reports. This file can be accessed online through the GeoTracker database at: [http://geotracker.waterboards.ca.gov/profile\\_report?global\\_id=SL204AE1744](http://geotracker.waterboards.ca.gov/profile_report?global_id=SL204AE1744).

reject the report if it is deemed incomplete and/or require revisions to the report under this Order.

6. The burdens, including costs, of these reports bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. The information is necessary to (a) define the vertical and lateral extent of the VOCs in the soil, soil gas, and groundwater, (b) to evaluate the potential human health risk posed by VOCs to occupants of the building onsite, and (c) to determine whether the Site is a continuing source of waste discharges to the groundwater resources beneath the Site. Upon adequately determining the extent of discharges of waste at and from the Site, you will be required to assure adequate cleanup of the Site, if necessary, and to assure that discharges of waste that could impact water quality will be addressed.
7. The issuance of this Order is an enforcement action by a regulatory agency and is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15321(a)(2), Chapter 3, Title 14 of the California Code of Regulations. This Order requires submittal of technical and/or monitoring reports, and may require the submittal of including work plans. The scope of activities required to prepare the reports required by this Order are not yet known. It is unlikely that compliance with this Order, including implementation of the work plans, could result in anything more than minor physical changes to the environment. If the implementation of this Order may result in significant impacts on the environment, the appropriate lead agency will address the CEQA requirements prior to approval of any work plan.
8. Any person aggrieved by this action of the Regional Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with California 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., 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: [http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) or will be provided upon request.

**THEREFORE, IT IS HEREBY ORDERED** that Gordon Habitat LLC, Mr. Ed Santiago, and Ms. Sophia Mei, pursuant to Water Code section 13267, subdivision (b), are required to submit the following:

1. By **January 15, 2018**, submit a technical report addressing the implementation of the Workplan approved on May 17, 2011, which includes, but is not limited to, the following items:
  - a. Findings, conclusions, recommendations, evaluation of risk to human health, and determination if expedited response is required;
  - b. A Conceptual Site Model: The Conceptual Site Model (CSM) should include a written presentation with graphic illustrations of discharge scenario, geology and hydrogeology, waste fate and transport in soil, soil gas, and groundwater, distribution of wastes, exposure pathways, sensitive receptors and other relevant information. The CSM shall be based upon the actual data already collected from the Site and shall identify data gaps, i.e., areas where further investigation is needed.
2. Upon further order of the Executive Officer, develop a workplan to complete a Human Health Risk Assessment (HHRA) in accordance with the Department of Toxic Substances Control (DTSC) and federal Environmental Protection Agency (EPA) guidelines. The Office of Environmental Health Hazard Assessment (OEHHA) will review the scope of work and methodology, which will be coordinated through the Regional Board. The CSM shall be incorporated into the development of the HHRA, considering all waste constituents in the soil matrix, soil gas and groundwater, all exposure pathways and sensitive receptors.
3. Implement a quarterly groundwater monitoring and sampling program for all wells at the Site. The quarterly groundwater monitoring report must be submitted by the fifteenth day following the end of the quarter, as shown in the following schedule with the next report due on **July 15, 2018**:

<u>Reporting Period</u>	<u>Report Due Date</u>
January – March	April 15 <sup>th</sup>
April – June	July 15 <sup>th</sup>
July – September	October 15 <sup>th</sup>
October – December	January 15 <sup>th</sup>

- a. Prior to conducting groundwater sampling, the integrity of the groundwater monitoring wells shall be verified, and the wells shall be redeveloped, if necessary.
- b. Groundwater monitoring reports shall include a contour map showing groundwater elevations at the Site and the groundwater flow direction. The quarterly groundwater monitoring reports shall include a well construction table for all groundwater

monitoring wells and tables summarizing the historical depth-to-water, groundwater elevations, and historical analytical results for each monitoring well. The results of any monitoring done more frequently than required at the locations specified in this Order shall be reported to the Regional Water Board. Field monitoring well sampling sheets shall be completed for each monitoring well sampled and included in the report.

- c. All sampling and analyses shall be by USEPA approved methods. The test methods chosen for detection of the constituents of concern shall be subject to review and concurrence by the Regional Board.
- d. Laboratory analytical reports to be included in technical reports shall contain a complete list of chemical constituents, which are tested for and reported on by the testing laboratory. In addition, the reports shall include both the method detection limit and the practical quantification limit for the testing methods. All samples shall be analyzed within the allowable holding time. All quality assurance/quality control samples must be run on the same dates when samples were actually analyzed. Proper chain of custody procedures must be followed and a copy of the completed chain of custody form shall be submitted with the report. All analyses must be performed by a laboratory accredited by the California Environmental Laboratory Accreditation Program (ELAP) of the State Water Resources Control Board, Division of Drinking Water.
- e. The following list of compounds/analytes shall constitute the monitoring program for groundwater:
  - Volatile Organic Compounds (full scan)
  - Temperature
  - pH
  - Electrical Conductivity
  - Dissolved oxygen
  - Oxidation-Reduction Potential
  - Turbidity

4. The above items shall be submitted to:

Mr. Ryan Vitug  
Engineering Geologist  
Remediation Section  
Los Angeles Regional Water Quality Control Board  
320 West 4th Street, Suite 200  
Los Angeles, CA 90013

Phone: (213) 576-6663

Email: ryan.vitug@waterboards.ca.gov

5. Pursuant to Water Code section 13268, subdivision (a), any person who fails to submit reports in accordance with the Order is guilty of a misdemeanor. Pursuant to Water Code section 13268, subdivision (b)(1), failure to submit the required technical report described above by the specified due date(s) may result in the imposition of administrative civil liability by the Regional Board in an amount up to one thousand dollars (\$1,000) per day for each day the technical report is not received after the above due date. These civil liabilities may be assessed by the Regional Board for failure to comply, beginning with the date that the violations first occurred, and without further warning.
6. The State Water Resources Control Board adopted regulations (California Code of Regulations, title 23, Chapter 30, Division 3 and title 27, Division 3) requiring the electronic submittals of information (ESI) for all site cleanup programs, starting January 1, 2005. Currently, all of the information on electronic submittals and GeoTracker contacts can be found on the Internet at the following link: [http://www.waterboards.ca.gov/ust/electronic\\_submittal/index.shtml](http://www.waterboards.ca.gov/ust/electronic_submittal/index.shtml).

To comply with the above referenced regulation, you are required to upload all technical reports, documents, and well data to GeoTracker by the due dates specified in the Regional Board letters and orders issued to you or for the Site. However, the Regional Board may request that you submit hard copies of selected documents and data in addition to electronic submittal of information to GeoTracker. For your convenience, the GeoTracker Global ID for this site is SL0603711101.

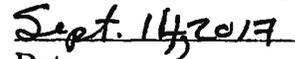
7. The Regional Board, under the authority given by Water Code section 13267, subdivision (b)(1), requires you to include a perjury statement in all reports submitted under this 13267 Order. The perjury statement shall be signed by a senior authorized Gordon Habitat LLC representative (not by a consultant) and/or Ms. Sophia Mei. The perjury statement shall be in the following format:

"I, [NAME], certify under penalty of law that this document and all attachments were prepared by me, or under my direction or supervision, in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and

complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

SO ORDERED.

  
Samuel Unger, P.E.  
Executive Officer

  
Date

Attachments:

- A. Regional Board correspondence titled, *California Water Code Section 13267 Order to Conduct an Environmental Investigation at Jesse Cleaners*. Dated June 27, 2008.
- B. Regional Board correspondence titled, *Approval of the Site Assessment Work Plan for Former Jesse Cleaners, 611 North Hoover Street, Los Angeles, California 90004 Pursuant to California Water Code (CWC) Section 13267 Order (SLIC No. 1232, Site ID No. 2040328)*. Dated May 17, 2011.
- C. Regional Board correspondence titled, *Notice of Violation – Failure to Submit a Technical Report Pursuant to California Water Code Section 13267 Order*. Dated March 8, 2017.

# **EXHIBIT 2**



Los Angeles Regional Water Quality Control Board

March 8, 2017

Ms. Sophia Mei  
c/o Mr. Peter Chiu  
720 S. Chapel Avenue, Apartment A  
Alhambra, California 91801

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
CLAIM NO. 7016 1970 0000 9836 1851

Mr. Rodolfo Lopez  
Mrs. Luz Lopez  
157 N. Toluca Street  
Los Angeles, California 90026

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
CLAIM NO. 7016 1970 0000 9836 1868

**SUBJECT: NOTICE OF VIOLATION – FAILURE TO SUBMIT A TECHNICAL REPORT PURSUANT TO CALIFORNIA WATER CODE SECTION 13267 ORDER**

**SITE: FORMER JESSE CLEANERS, 650 NORTH HOOVER STREET, LOS ANGELES, CALIFORNIA (SCP NO. 1232, SITE ID NO. 2040328)**

Dear Mr. Chiu, Mr. and Mrs. Lopez:

The California Regional Water Quality Control Board, Los Angeles Region (Regional Board), 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 above-referenced Site.

On June 27, 2008, the Regional Board issued an Investigative Order pursuant to California Water Code (CWC) Section 13267 (attached) to Ms. Sophia Mei (c/o Mr. Peter Chiu), Mr. Rudolph Lopez, and Mrs. Luz Lopez (herein you). The Order required you to: 1) Conduct a Phase I Investigation that evaluates source contamination, which entails identifying potential source areas and a list of chemicals used, stored, or disposed at the Site; 2) Develop a workplan for soil, soil vapor, and groundwater investigation to characterize all chemicals of concern (COCs) originating from the Site.

On May 17, 2011, the Regional Board approved a site assessment workplan with conditions (attached). The approval letter acknowledged the receipt of the site assessment workplan and

included a new deliverable, a technical report (Report) to be submitted on July 29, 2011. The Regional Board has not received the Report to date.

Table 1 below lists the outstanding Report, its due date, and the current status of the Report.

**Table 1. Outstanding Report in Violation of 13267 Order as of March 8, 2017**

Requirement	Due Date	Status
Technical report addressing the execution of the approved workplan, including but not limited to the following items: 1) Findings, conclusions, recommendations, evaluation of risk to human health and determination if expedited response is required; and 2) A Conceptual Site Model	July 29, 2011	Not submitted

**YOU ARE HEREBY NOTIFIED** that you are in violation of the Investigative Order issued pursuant to California Water Code section 13267 on June 27, 2008 by the Regional Board Executive Officer, by failing to submit the Report by July 29, 2011. You are required to immediately:

1. Ensure full compliance with the Investigative Order pursuant to CWC Section 13267.
2. Implement the workplan as approved.
3. Submit the Report upon completion.

Please submit the required documents to the Regional Board to the attention of:

Mr. Ryan Vitug  
Los Angeles Regional Water Quality Control Board  
320 West 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013-234.

Compliance with the tasks listed in this Notice of Violation does not affect the Regional Board's authorization to take enforcement action against you for the violation noted herein.

This violation may subject you to further enforcement actions, including administrative civil liabilities of up to one thousand dollars (\$1,000) for each day that you are out of compliance with the Order, pursuant to Water Code section 13268. The Regional Board reserves its right to take any further enforcement action authorized by law, including referring the matter to the Attorney General.

Ms. Sophia Mei (c/o Mr. Peter Chiu)  
Mr. Rudolph Lopez & Mrs. Luz Lopez

- 3 -

March 8, 2017

**If you have any questions regarding this matter, please contact Mr. Ryan Vitug, Project Manager, at (213)-576-6663 ([ryan.vitug@waterboards.ca.gov](mailto:ryan.vitug@waterboards.ca.gov)) or his supervisor Ms. Thizar Williams at (213)-576-6723 ([thizar.williams@waterboards.ca.gov](mailto:thizar.williams@waterboards.ca.gov)).**

Sincerely,

  
Paula Rasmussen  
Assistant Executive Officer

Attachments:

- A. Regional Board letter titled, "California Water Code Section 13267 Order to Conduct an Environmental Investigation at Jesse Cleaners." Dated June 27, 2008.
- B. Regional Board letter titled, "Approval of the Site Assessment Work Plan for Former Jesse Cleaners." Dated May 17, 2011.

cc -- David Boyers, Office of Enforcement, State Water Resources Control Board

# **EXHIBIT 3**



# California Regional Water Quality Control Board

## Los Angeles Region

Attachment A



Recipient of the 2001 *Environmental Leadership Award* from Keep California Beautiful

Linda S. Adams  
Agency Secretary

320 W. 4th Street, Suite 200, Los Angeles, California 90013  
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

Arnold Schwarzenegger  
Governor

June 27, 2008

Mr. Rudolpho Lopez and Ms. Luz Lopez  
157 N. Toluca Street  
Los Angeles, CA 90025

Certified Mail  
Return Receipt Requested  
Claim No. 7008 0150 0003 7881 0169

Ms. Mei De Chiu Xul Fei  
P. O. Box 6694  
Alhambra, CA 91802

Certified Mail  
Return Receipt Requested  
Claim No. 7008 0150 0003 7881 0138

**CALIFORNIA WATER CODE SECTION 13267 ORDER TO CONDUCT AN ENVIRONMENTAL INVESTIGATION AT JESSE CLEANERS, LOCATED AT 650 NORTH HOOVER STREET, LOS ANGELES, CALIFORNIA 90004 - 2345 (SITE CLEANUP NO. 1232)**

Dear Mr. and Mrs. Lopez and Ms. Xul Fei:

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

The Regional Board provides regulatory oversight for the environmental investigation of the Streetlight Maintenance Headquarters (SMH Site) of the Los Angeles Department of Water and Power (LADWP) situated at 611 North Hoover Street, immediately south west of Jesse Cleaners located at 650 North Hoover Street (Figure 1). The site assessment data from the LADWP identifies Jesse Cleaners as a potential source of tetrachloroethylene (PCE) contamination to soil and groundwater. A tetrachloroethylene (PCE) concentration as high as 1,100 micrograms per kilogram ( $\mu\text{g}/\text{Kg}$ ) was detected in soil samples obtained from the eastern side of Hoover Street, 50 feet up gradient from the SMH Site and immediately down gradient from the dry cleaning facility. In addition, groundwater samples obtained from locations immediately down gradient from the dry cleaning facility and approximately 50 feet from the SMH Site have PCE concentrations greater than 1,000 micrograms per liter ( $\mu\text{g}/\text{L}$ ).

The chemical of concern (COCs) detected at the SMH Site is consistent with chemical usage at a dry cleaning facility. It is our understanding that Mr. Rudolph Lopez and Mrs. Luz Lopez are the operators of the Jesse Cleaners and Ms. Mei De Chiu Xul Fei is the owner of the property. Pursuant to the California Water Code Sections 13267 and 13304, both the operator of the Jesse Cleaners and owner of the property are responsible parties for the environmental investigation, monitoring and cleanup of the site. As operator of the Jesse Cleaners and owner of the property, you are directed to initiate a complete environmental investigation including evaluation of impacts to soil, soil vapor and groundwater. This letter provides Regional Board requirements to conduct an environmental investigation at the Site.

*California Environmental Protection Agency*



*Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.*

**Exhibit 3**

Mr. Rudolpho Lopez and Mrs. Luz Lopez  
Jesse Cleaners  
Ms. Mei De Chiu Xul Fei  
Alhambra, CA

- 2 -

June 27, 2008

Based on the available information, Jesse Cleaners is subject to the following requirements:

1. You are required to conduct a Phase I Investigation that includes a contaminant source evaluation which entails identifying potential source areas (dry cleaning machine, boilers, pits, sumps, clarifiers, piping, sewer lines, chemical storage areas etc.) and provide a detailed list of chemicals used, stored or disposed at the Site. The report must include available records of any soil imported to or exported from the site. Jesse Cleaners is directed to submit the Phase I report for Regional Board review by **August 29, 2008**.
2. Develop a comprehensive workplan for the investigation of all media (soil, soil vapor, and groundwater) sampling to completely characterize the chemicals of concern (COCs) originating from the Site. You are directed to submit this workplan for Regional Board review and approval by **August 29, 2008**.
3. The soil, soil vapor and groundwater characterization workplans must contain a site-specific health and safety plan (HSP) in compliance with California Occupational Safety and Health Agency (Cal-OSHA), Health and Safety Code, Title 8, California Code of Regulations (CCR), Section 5192 and other appropriate sections.
4. Pursuant to State Water Resources Control Board Resolution No. 92-49, under Water Code Section 13304, all investigations shall be conducted by, or under the direct responsible supervision of, a registered professional geologist or licensed civil engineer. All technical documents submitted to the Regional Board must be reviewed and signed and/or stamped by a California registered professional geologist, a California registered certified specialty geologist, or a California registered civil engineer with at least five years hydrogeologic experience.

You are directed to furnish the technical reports as required under the provision of Section 13267 of California Water Code. Therefore, pursuant to Section 13268 of the California Water Code, failure to submit the required technical reports (Phase I Investigation, Site Assessment Work Plan with Health and Safety Plan) or documents by the due dates specified may result in civil liability administratively imposed by the Regional Board in an amount up to one thousand dollars (\$1,000) for each day the report or document is not received.

Failure to comply with the terms or conditions of this Order may result in imposition of civil liabilities, either administratively by the Regional Board or judicially by the Superior Court in accordance with Section 13350 of the California Water Code, and/or referral to the Attorney general of the State of California for such action as he may deem appropriate.

*California Environmental Protection Agency*



*Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.*

**Exhibit 3**

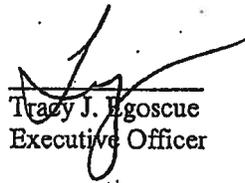
Mr. Rudolpho Lopez and Mrs. Luz Lopez  
Jesse Cleaners  
Ms. Mei De Chiu Xul Fei  
Alhambra, CA

-3 -

June 27, 2008

If you have any questions, please contact the Project Manager Dr. Teklewold Ayalew at (213) 576-6743 or [tayalew@waterboards.ca.gov](mailto:tayalew@waterboards.ca.gov) or Mr. Adnan Siddiqui at (213) 576-6812.

Sincerely,

  
Tracy J. Egoscue  
Executive Officer

Attachments: Figure 1

Cc: Mark J. Sedlacek, LADWP  
Mark Feldman, Tetra Tech

*California Environmental Protection Agency*

 Recycled Paper

*Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.*

**Exhibit 3**

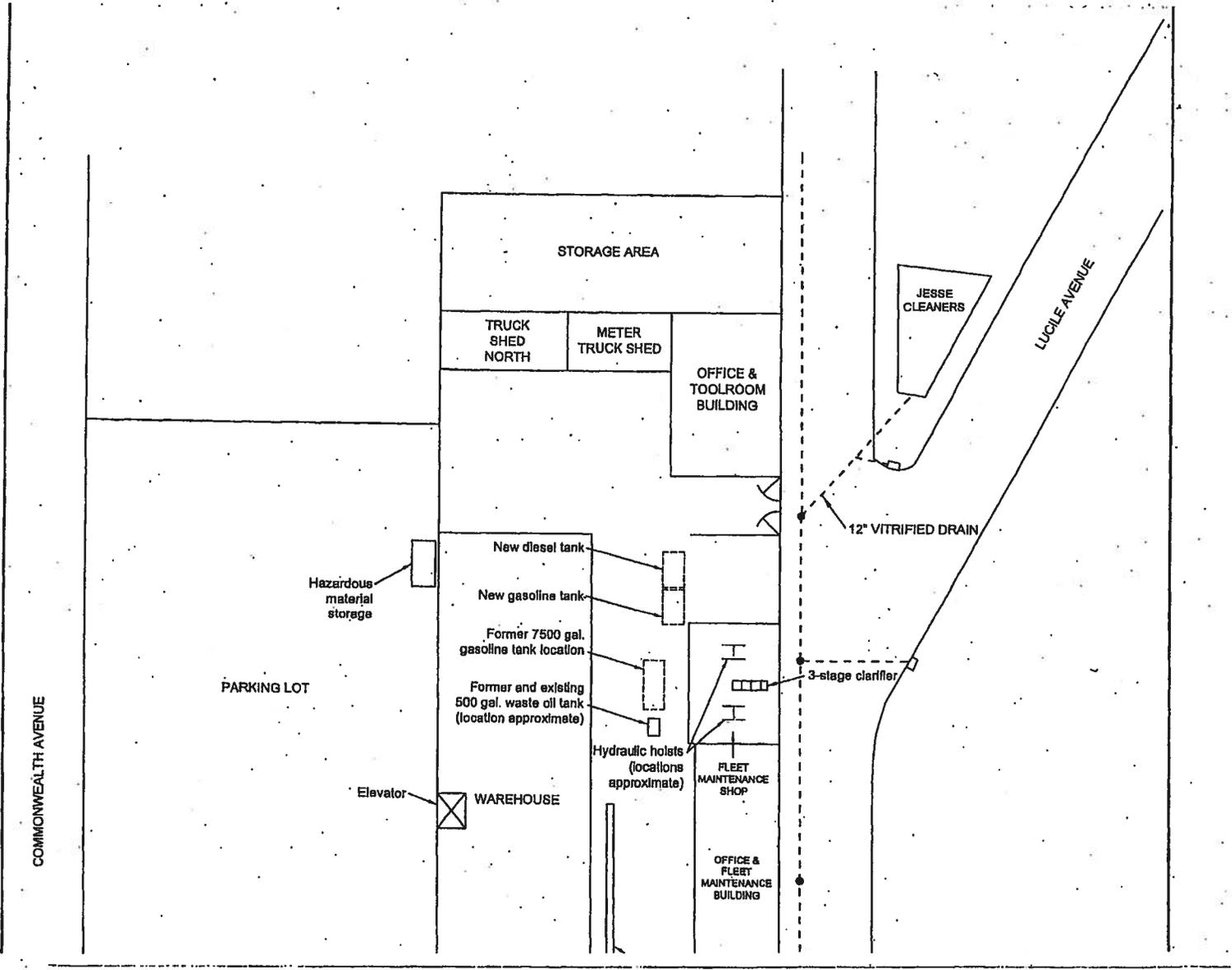


Exhibit 3

# **EXHIBIT 4**

**STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL**

In the Matter of:	)	Docket No. HSA-VCA 07/08-
	)	
Jesse Cleaners	)	Voluntary Cleanup
650 N. Hoover St.	)	Agreement
Los Angeles, CA	)	
	)	
Project Proponent	)	Health and Safety Code
	)	
Jesse Cleaners	)	
Attn: Sophia Mei	)	
650 N. Hoover St.	)	Section 25355.5(a)(1)(C)
Los Angeles, CA	)	
	)	
	)	
	)	

---

**I. INTRODUCTION**

1.1 Parties. The California Environmental Protection Agency, Department of Toxic Substances Control (DTSC) enters into this Voluntary Cleanup Agreement (Agreement) with Jesse Cleaners (Proponent).

1.2 Site. The property which is the subject of this Agreement (Site) is located at 650 North Hoover Street, Los Angeles, Los Angeles County, California 90004. The Site is currently occupied by Jesse Cleaners and has been used for dry cleaning since 1983. The Site has a dry cleaning machine and has used tetrachloroethylene (PCE) for their dry-cleaning operations. The Site property consists of 0.199 acres and is identified by Assessor's Parcel Number(s) APN 5401-002-022. A diagram of the Site and a location map are attached as Exhibit A and Exhibit B.

1.3 Jurisdiction. This Agreement is entered into by DTSC and Proponent pursuant to Health and Safety Code (H&SC) section 25355.5(a)(1)(C). This section authorizes DTSC to enter into an enforceable agreement with Proponents to oversee the characterization and cleanup of a Site.

1.4 Purpose. The purpose of this Agreement is for DTSC to review and comment on Preliminary Endangerment Assessment Equivalent (PEAE) documents for the Site. DTSC will determine what additional work, if any, will be required to complete the investigation of the Site. The purpose of this agreement is also for the Proponent to prepare and implement a Removal Action Workplan (RAW) under the oversight of DTSC. If appropriate, DTSC will issue a "No Further Action" letter based upon completion of the RAW. The purpose of this Agreement is also for DTSC to obtain reimbursement from the Proponent for DTSC's oversight costs.

## II. BACKGROUND

2.1 Ownership. The Site is owned by Jesse Cleaners.

2.2 Substances Found at the Site. Reports, containing the results of environmental media sampling conducted at the Site, indicate that the soil and groundwater is contaminated with tetrachloroethylene (PCE).

2.3 Physical Description. The Site is located at 650 North Hoover Street, Los Angeles, California in a commercial/residential area of Los Angeles. The Site is a triangular shaped piece of property that is bordered by residential properties to the north and east, Hoover Street to the south and a Los Angeles Department of Water and Power facility to the west.

2.4 Site History. The Site was apparently used for dry cleaning operations from about 1983 through the present. Jesse Cleaners continues to operate at this location.

## III. AGREEMENT

3.0 **IT IS HEREBY AGREED THAT** DTSC will provide review and oversight of the response activities conducted by the Proponent in accordance with the Scope of Work contained in Exhibit C. The Proponent shall conduct the activities in the manner specified herein and in accordance with the schedule specified in Exhibit E. All work shall be performed consistent with H&SC section 25300 et seq., as amended; the National Contingency Plan (40 Code of Federal Regulations (CFR) Part 300), as amended; U.S. EPA and DTSC Superfund guidance documents regarding site investigation and remediation.

3.1 Scope of Work and DTSC Oversight. DTSC shall review and provide Proponent with written comments on all Proponent deliverables as described in Exhibit C (Scope of Work) and other documents applicable to the scope of the project. DTSC shall provide oversight of field activities, including sampling and remedial activities, as appropriate. DTSC's completion of activities described above shall constitute DTSC's complete performance under this Agreement.

3.2 Additional Activities. Additional activities may be conducted and DTSC oversight provided by amendment to this Agreement or Exhibits hereto in accordance with Paragraph 3.17. If DTSC expects additional oversight costs to be incurred related to these additional activities, it will provide an estimate of the additional oversight cost to the Proponent.

3.3 Agreement Managers. Sayareh Amir, Chief, Site Mitigation & Brownfields Reuse Program, Glendale is designated by DTSC as its Manager for this Agreement. Deanna Kim, JMK Environmental Solutions, Inc., is assigned by the Proponent as its Manager for this Agreement. Each Party to this Agreement shall provide at least ten (10) days advance written notice to the other of any change in its designated manager.

3.4 Notices and Submittals. All notices, documents and communications required to be given under this Agreement, unless otherwise specified herein, shall be sent to the respective parties at the following addresses in a manner that produces a

record of the sending of the notice, document or communication such as certified mail, overnight delivery service, facsimile transmission or courier hand delivery service:

3.4.1 To DTSC:

Sayareh Amir, Chief  
Attn:  
Site Mitigation & Brownfields Reuse Program  
Department of Toxic Substances Control  
1011 North Grandview Avenue  
Glendale, California 91201

3.4.2 To the Proponent:

Jesse Cleaners  
Attn: Sophia Mei  
650 North Hoover Street  
Los Angeles, California 90004

3.5 DTSC Review and Approval. If DTSC determines that any report, plan, schedule or other document submitted for approval pursuant to this Agreement fails to comply with this Agreement or fails to protect public health or safety or the environment, DTSC may (a) Return comments to the Proponent with recommended changes; or (b) Modify the document as deemed necessary and approve the document as modified.

3.6 Communications. All DTSC approvals and decisions made regarding submittals and notifications will be communicated to the Proponent in writing by DTSC's Agreement Manager or his/her designee. No informal advice, guidance, or suggestions or comments by DTSC regarding reports, plans, specifications, schedules or any other writings by the Proponent shall be construed to relieve the Proponent of the obligation to obtain such written approvals.

3.7 Endangerment During Implementation. In the event DTSC determines that any activity (whether or not pursued in compliance with this Agreement) may pose an imminent or substantial endangerment to the health and safety of people on the Site or in the surrounding area or to the environment, DTSC may order the Proponent to stop further implementation of this Agreement for such period of time as may be needed to abate the endangerment.

3.8 Payment. The Proponent agrees to pay (1) all costs incurred by DTSC in association with preparation of this Agreement and for review of documents submitted prior to the effective date of the Agreement, and (2) all costs incurred by DTSC in providing oversight pursuant to this Agreement including review of the documents described in Exhibit C and associated documents, and in providing oversight of field activities. An estimate of DTSC's oversight costs is attached as Exhibit D. It is understood by the parties that Exhibit D is an estimate and cannot be relied upon as the final cost figure. DTSC will bill the Proponent quarterly. Proponent agrees to make payment within

sixty (60) days of receipt of DTSC's billing. Such billings will reflect any amounts that have been advanced to DTSC by the Proponent.

3.8.1 In anticipation of services to be rendered, Proponent shall make an advance payment of \$ \_\_\_\_\_ to DTSC. That payment shall be made no later than ten (10) days after this Agreement is fully executed. If the Proponent's advance payment does not cover all costs payable to DTSC under this paragraph, Proponent agrees to pay the additional costs within sixty (60) days of receipt of a bill from DTSC.

3.8.2 If any bill is not paid by the Proponent within sixty (60) days after it is sent by DTSC, the Proponent may be deemed to be in material default of this Agreement.

3.8.3 All payments made by the Proponent pursuant to this Agreement shall be by a cashier's or certified check made payable to the "Department of Toxic Substances Control", and bearing on its face the project code for the site (Calstars Site Code # \_\_\_\_\_) and the docket number (Docket No. HSA-VCA-07/08- \_\_\_\_\_) of this Agreement. Payments shall be sent to:

Department of Toxic Substances Control  
Accounting/Cashier  
1001 I Street  
P.O. Box 806  
Sacramento, California 95812-0806

A photocopy of the check shall be sent concurrently to DTSC's Agreement Manager.

3.8.4 If the advance payment exceeds DTSC's actual oversight costs, DTSC will provide an accounting for expenses and refund the difference within one hundred-twenty (120) days after termination of this Agreement in accordance with Paragraph 3.18. In no other case shall the Proponent be entitled to a refund from DTSC or to assert a claim against DTSC for any amount paid or expended under this Agreement.

3.9 Condition Precedent. It is expressly understood and agreed that DTSC's receipt of the advance payment described in Paragraph 3.8.1 is a condition precedent to DTSC's obligation to provide oversight, review and/or comment on documents.

3.10 Record Retention. DTSC shall retain all cost records associated with the work performed under this Agreement for such time periods as may be required by applicable state law. The Proponent may request to inspect all documents which support DTSC's cost determination in accordance with the Public Records Act, Government Code section 6250 et seq.

3.11 Project Coordinator. The work performed pursuant to this Agreement shall be under the direction and supervision of a qualified project coordinator, with expertise in hazardous substance site cleanup. The Proponent shall submit: a) the name and address of the project coordinator; and b) in order to demonstrate expertise in hazardous substance site cleanup, the resume of the coordinator. The Proponent shall promptly notify DTSC of any change in the identity of the Project Coordinator. All engineering and geological work shall be conducted in

conformance with applicable state law including but not limited to Business and Professions Code sections 6735 and 7835.

3.12 Access. Proponent shall provide, and/or obtain access to the Site and offsite areas to which access is necessary to implement this Agreement. Such access shall be provided to DTSC's employees, contractors, and consultants at all reasonable times. Nothing in this paragraph is intended or shall be construed to limit in any way the right of entry or inspection that DTSC or any other agency may otherwise have by operation of any law. DTSC and its authorized representatives shall have the authority to enter and move freely about all property at the Site at all reasonable times for purposes including, but not limited to: inspecting records, operating logs, sampling and analytic data, and contracts relating to this Site; reviewing the progress of the Proponent in carrying out the terms of this Agreement; conducting such tests as DTSC may deem necessary; and verifying the data submitted to DTSC by the Proponent.

3.13 Sampling, Data and Document Availability. When requested by DTSC, the Proponent shall make available to DTSC, and shall provide copies of, all data and information concerning contamination at the Site, including technical records and contractual documents, sampling and monitoring information and photographs and maps, whether or not such data and information was developed pursuant to this Agreement.

3.14 Notification of Field Activities. The Proponent shall inform DTSC at least seven (7) days in advance of all field activities pursuant to this Agreement and shall allow DTSC and its authorized representatives to take duplicates of any samples collected by the Proponent pursuant to this Agreement.

3.15 Notification of Environmental Condition. The Proponent shall notify DTSC's Agreement Manager immediately upon learning of any condition posing an immediate threat to public health or safety or the environment. Within seven (7) days of the onset of such a condition, the Proponent shall furnish a report to DTSC, signed by the Proponent's Agreement Manager, setting forth the events which occurred and the measures taken in the response thereto.

3.16 Preservation of Documentation. The Proponent shall maintain a central repository of the data, reports, and other documents prepared pursuant to this Agreement. All such data, reports and other documents shall be preserved by the Proponent for a minimum of six (6) years after the conclusion of all activities carried out under this Agreement. If DTSC requests that some or all of these documents be preserved for a longer period of time, the Proponent shall either comply with that request, deliver the documents to DTSC, or permit DTSC to copy the documents prior to destruction. The Proponent shall notify DTSC in writing at least ninety (90) days prior to the expiration of the six-year minimum retention period before destroying any documents prepared pursuant to this Agreement. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the six year period, the related records shall be retained until the

completion and resolution of all issues arising therefrom or until the end of the six-year period, which ever is later.

3.17 Amendments. This Agreement may be amended or modified solely upon written consent of all parties. Such amendments or modifications may be proposed by any party and shall be effective the third business day following the day the last party signing the amendment or modification sends its notification of signing to the other party. The parties may agree to a different effective date.

3.18 Termination for Convenience. Except as otherwise provided in this Paragraph, each party to this Agreement reserves the right unilaterally to terminate this Agreement for any reason. Termination may be accomplished by giving a thirty (30) day advance written notice of the election to terminate this Agreement to the other Party. In the event that this Agreement is terminated under this Paragraph, the Proponent shall be responsible for DTSC costs through the effective date of termination.

3.19 Exhibits. All exhibits attached to this Agreement are incorporated herein by this reference.

3.20 Time Periods. Unless otherwise specified, time periods begin from the date this Agreement is fully executed, and "days" means calendar days. "Business days" means all calendar days that are not weekends or official State holidays.

3.21 Proponent Liabilities. Nothing in this Agreement shall constitute or be considered a satisfaction or release from liability for any condition or claim arising as a result of Proponent's past, current, or future operations. Nothing in this Agreement is intended or shall be construed to limit the rights of any of the parties with respect to claims arising out of or relating to the deposit or disposal at any other location of substances removed from the Site.

3.22 Government Liabilities. The State of California (State) shall not be liable for any injuries or damages to persons or property resulting from acts or omissions by the Proponent or by related parties in carrying out activities pursuant to this Agreement, nor shall the State of California be held as a party to any contract entered into by the Proponent or its agents in carrying out the activities pursuant to this Agreement.

3.23 Third Party Actions. In the event that the Proponent is a party to any suit or claim for damages or contribution relating to the Site to which DTSC is not a party, the Proponent shall notify DTSC in writing within ten (10) days after service of the complaint in the third-party action. Proponent shall pay all costs incurred by DTSC relating to such third-party actions, including but not limited to responding to subpoenas.

3.24 Reservation of Rights. DTSC and the Proponent reserve the following rights.

3.24.1 DTSC reserves its right to pursue cost recovery under the Comprehensive Environmental Response, Compensation and Liability act of 1980 (CERCLA), as amended, the California Health and Safety Code section 25360, and any other applicable section of the law.

3.24.2 Nothing in this Agreement is intended or shall be construed to limit or preclude DTSC from taking any action authorized by law or equity to protect public health and safety or the environment and recovering the costs thereof.

3.24.3 Nothing in this Agreement shall constitute or be construed as a waiver of the Proponent's rights, (including any covenant not to sue or release) with respect to any claim, cause of action, or demand in law or equity that the Proponent may have against any "person", as defined in Section 101(21) of CERCLA, or Health and Safety Code section 25319, that is not a signatory to this Agreement.

3.24.4 By entering into this Agreement, Proponent does not admit to any fact, fault or liability under any statute or regulation.

3.25 Compliance with Applicable Laws. Nothing in this Agreement shall relieve the Proponent from complying with all applicable laws and regulations, and the Proponent shall conform all actions required by this Agreement with all applicable federal, state and local laws and regulations.

3.26 California Law. This Agreement shall be governed, performed and interpreted under the laws of the State of California.

3.27 Severability. If any portion of this Agreement is ultimately determined not to be enforceable, that portion will be severed from the Agreement and the severability shall not affect the enforceability of the remaining terms of the Agreement.

3.28 Parties Bound. This Agreement applies to and is binding, jointly and severally, upon each signatory and its officers, directors, agents, receivers, trustees, heirs, executors, administrators, successors, and assigns, and upon any successor agency of the State of California that may have responsibility for and jurisdiction over the subject matter of this Agreement. No change in the ownership or corporate or business status of any signatory, or of the facility or Site shall alter any signatory's responsibilities under this Agreement.

3.29 Effective Date. The effective date of this Agreement is the date when this Agreement is fully executed.

3.30 Representative Authority. Each undersigned representative of the parties to this Agreement certifies that she or he is fully authorized to enter into the terms and conditions of this Agreement and to execute and legally bind the parties to this Agreement.

3.31 Counterparts. This Agreement may be executed and delivered in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, but such counterparts shall together constitute one and the same document.

\_\_\_\_\_ Date: \_\_\_\_\_  
Sayareh Amir, Chief  
Southern California Cleanup Operations, Glendale  
Site Mitigation & Brownfields Reuse Program  
Department of Toxic Substances Control

\_\_\_\_\_ Date: \_\_\_\_\_  
Sophia Mei, Owner  
Jesse Cleaners

## EXHIBITS

- A - SITE DIAGRAM
- B - SITE LOCATION MAP
- C - SCOPE OF WORK
- D - COST ESTIMATE
- E - SCHEDULE

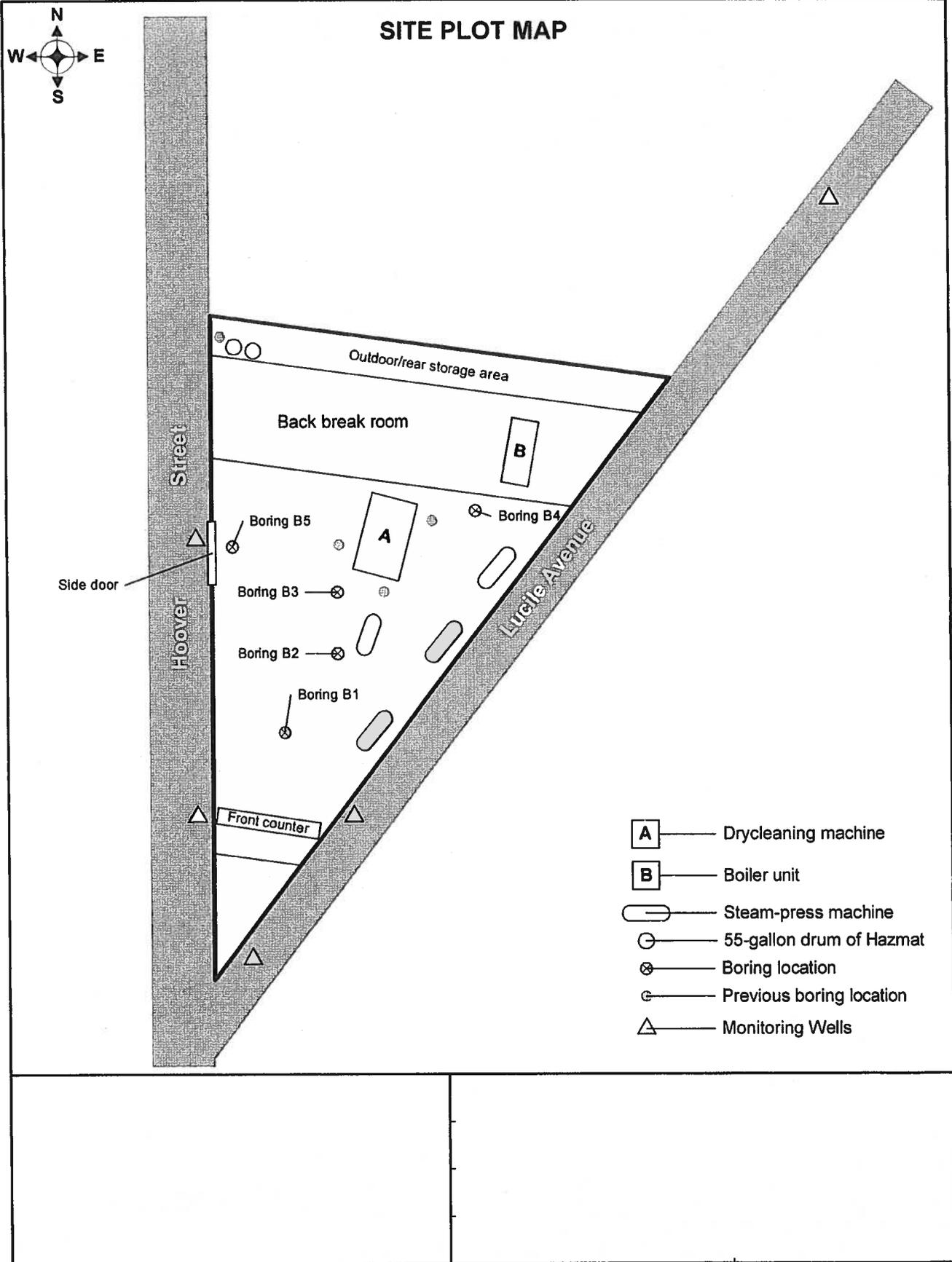


Exhibit 4

# Site Location Map



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© Copyright 2003 by Geographic Data Technology, Inc. All rights reserved. © 2004 NAVTEQ. All rights reserved. This data includes information taken with permission from Canadian authorities © Her Majesty the Queen in Right of Canada.

## EXHIBIT C

### SCOPE OF WORK

The following Task(s) will be completed as part of this Agreement:

#### TASK 1. Document Review.

DTSC will review the existing Environmental Site Assessment reports for the dry cleaning Site located at 650 North Hoover Street, Los Angeles, California. DTSC will review these documents, identify areas and media of concern, and determine the additional work, if any, required to complete the investigation/remediation of the Site. DTSC will either issue comments to Proponent describing deficiencies in the reports or make a determination that No Further Action is required at the Site.

#### TASK 2. Removal Action Workplan.

If DTSC determines a removal action is appropriate, the Proponent will prepare a Removal Action Workplan (RAW) in accordance with Health and Safety Code sections 25323.1 and 25356.1. The Removal Action Workplan will include:

- (a) a description of the onsite contamination;
- (b) the goals to be achieved by the removal action;
- (c) an analysis of the alternative options considered and rejected and the basis for that rejection. This should include a discussion for each alternative which covers its effectiveness, implementability and cost;
- (d) administrative record list; and
- (e) a statement that the RAW serves as an equivalent document to the Engineering Evaluation/Cost Analysis document required by the National Contingency Plan.

If the proposed removal action does not meet the requirements of Health and Safety Code section 25356.1(h), the Proponent will prepare a Remedial Action Plan (RAP) in accordance with Health and Safety Code section 25356.1(c) for DTSC review and approval.

#### TASK 3. Implementation of Final Removal Action Workplan.

Upon DTSC approval of the final Removal Action Workplan (RAW), the Proponent shall implement the removal action, as approved. Within thirty (30) days of completion of field activities, Proponent shall submit an Implementation Report documenting the implementation of the final RAW.

TASK 4. Changes During Implementation of the Final RAW.

During implementation of the final RAW, DTSC may specify such additions, modifications and revisions to the RAW as deemed necessary to protect human health and safety or the environment or to implement the RAW.

TASK 5. Public Participation.

Proponent shall conduct appropriate public participation activities given the nature of the community surrounding the Site and the level of community interest. Proponent shall work cooperatively with DTSC to ensure that the affected and interested public and community are involved in DTSC's decision-making process. Any such public participation activities shall be conducted in accordance with Health and Safety Code sections 25358.7, the DTSC Public Participation Policy and Procedures Manual, and with DTSC's review and approval.

**EXHIBIT D**

**DRAFT COST ESTIMATE WORKSHEET**

VOLUNTARY CLEANUP AGREEMENT: Jesse Cleaners

Project Name: 650 North Hoover St., Los Angeles, California

CalStars Site Code:

Title	VCP	Project		Supervisor		Toxicology	Geology	Industrial	HQ	Public	HQ	Legal	Clerical
	Coord.	Manager						Hygiene	Engring	Particip	CEQA		
Classification	Sr. HSS	HSS	HSE	HSSI	HSEI	Staff Toxicologist	Eng Geol.	Assoc IH	HSE	PPS	AEP	Staff Counsel	WPT
<b>TASK:</b>													
Agreement Prep./Negotiation	4												
Review and comment on Preliminary Endangerment Assessment Equivalent documents, General Project Oversight		24		2		8	12						
Scoping Documents: HSP/SAP/QAP													
Remedial Investigation/ Feasibility Study (RI/FS)													
- Workplan													
- Implementation													
- Report													
Risk Assessment		4				12							
Public Participation		8		2						12			
CEQA		16		2							4		
Removal Action Workplan		30		2		12	24		16				
Remedial Action Plan (RAP)													
Remedial Design (RD)													
Implement RAP													
Completion Report		8		2		4	4						
Certification		4		2									
Deed Restriction		8										8	
Operation & Maint		12		2			4		4				
<b>Total No. Hours/Class</b>	<b>4</b>	<b>114</b>	<b>0</b>	<b>14</b>	<b>0</b>	<b>36</b>	<b>44</b>	<b>0</b>	<b>20</b>	<b>12</b>	<b>4</b>	<b>8</b>	<b>0</b>
<b>Hourly Rate/Class</b>	<b>134</b>	<b>117</b>	<b>145</b>	<b>135</b>	<b>166</b>	<b>166</b>	<b>145</b>	<b>122</b>	<b>145</b>	<b>109</b>	<b>115</b>	<b>165</b>	<b>67</b>
<b>Cost/Class</b>	<b>536</b>	<b>13338</b>	<b>0</b>	<b>1890</b>	<b>0</b>	<b>5976</b>	<b>6380</b>	<b>0</b>	<b>2900</b>	<b>1308</b>	<b>460</b>	<b>1320</b>	<b>0</b>
<b>Grand Total Cost</b>	<b>\$34,108</b>												

## EXHIBIT E

### PROJECT SCHEDULE

TASK	TIMELINE
Agreement Execution	September 2007
Submittal of Existing Data	Within 14 days after execution of agreement
DTSC to review and comment on existing data	Within 30 days after submittal of existing data
Proponent to submit workplan and complete any additional Site Characterization recommended by DTSC (if necessary)	Within 60 days after receipt of DTSC comments on existing data
Proponent to submit additional Site Characterization Report (if necessary)	Within 21 days after completion of fieldwork
DTSC to review and comment on Site Characterization Report (if necessary)	Within 14 days after receipt of Site Characterization Report
Proponent to submit revised Site Characterization Report (if necessary)	Within 14 days after receipt of DTSC comments
Public Participation Activities	Concurrently, as determined by the project
CEQA Activities	Concurrently, as determined by the project
Proponent to submit Removal Action Workplan (RAW) to DTSC for review and comment	Within 21 days after completion of additional Site Characterization (if necessary)
DTSC to review and comment on RAW	Within 21 days after receipt of RAW
Proponent to submit revised RAW	Within 14 days after receipt of DTSC comments
Proponent to Implement Removal Action (RA)	As outlined in RAW
Proponent to submit RA completion report	As outlined in RAW
DTSC to review and comment on completion report	Within 14 days of receipt of completion report
Proponent to submit revised final completion report based on DTSC comments	Within 14 days after receipt of DTSC comments
DTSC to review and approve final completion report	Within 14 days after receipt of final completion report

# **EXHIBIT 5**

## Brenda L. Tavera

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**From:** Brian D. Langa  
**Sent:** Friday, November 17, 2017 3:04 PM  
**To:** Unger, Samuel@Waterboards; ryan.vitug@waterboards.ca.gov; thizar.williams@waterboards.ca.gov  
**Subject:** Investigative Order R4-2017-0164 ("Order"); 650 North Hoover Street, Los Angeles, CA 90004  
**Attachments:** Voluntary Cleanup Agreement re DTSC-Jesse Cleaners\_07.2007.pdf

Dear Mr. Unger, Ms. Tintut-Williams, and Mr. Vitug,

Our office was recently retained by Mr. Ed Santiago and Gordon Habitat, LLC ("GH") in connection with the above referenced Order. As explained below, Mr. Santiago had not received the September 14, 2017 cover letter and Order until the week of October 23, 2017. Mr. Santiago and GH reserve all rights in connection with challenging ineffective service of the Order, but given the 30 day timeline, Mr. Santiago and GH may have to file a Petition for Review with the State Water Resources Control Board Monday. Still, I wanted to reach out as soon as I could to explain the situation, and although it may not be resolved prior to filing a Petition, hopefully, we can resolve it quickly thereafter and dismiss the Petition. I attempted to contact Frances McChesney as she was the State Board counsel cc'ed on the Order, but her outgoing message stated she is retired. I also left a voice mail with counsel Dave Boyers as I saw he was a cc on a March 8, 2017 Notice of Violation issued in this matter, and he returned my call, but he was not overly familiar with the matter other than being a cc on the NOV.

The Petition will seek for Mr. Santiago to be removed from the Order, and for GH to be identified as secondarily liable to the named discharger, Sophia Mei ("Ms. Mei"), who is also a recipient of the Order as well as a June 27, 2008 Order ("First Order") regarding this property. We also seek clarification regarding the dry cleaner operators, Mr. Rodolfo and Mrs. Luz Lopez, and why the passing of one individual, Mr. Lopez, would result in the other being removed from the First Order and whether Mr. Lopez's estate has been pursued.

As background, the Order is issued to GH, Mr. Santiago, and Ms. Mei. The Order follows a March 8, 2017 Notice of Violation ("NOV") issued to Ms. Mei and Mr. Rodolfo and Mrs. Luz Lopez ("Lopezes") for failing to comply with the First Order. The First Order was issued to the Lopezes and Ms. Mei, then called Ms. Mei De Chiu Xul Fei.

As set forth in the First Order, the Lopezes were the operators of a dry cleaner, Jesse Cleaners, which operated at the Site. Further, Ms. Mei was the owner during the period of the dry cleaner operations. (Ms. Mei's ownership actually dates back to 1996.) The Order states Mr. Santiago purchased the site from Ms. Mei in the Fall of 2010 and then transferred it shortly thereafter in 2011 to GH. Based on the written documentation I have reviewed, it would appear Ms. Mei had accepted responsibility for environmental work at the site given Ms. Mei had submitted a workplan on October 25, 2008 in response to the First Order. (Further, there appears to have been a DTSC Voluntary Cleanup Agreement between DTSC and Ms. Mei with a contemplated execution date of September 2007, although it is unclear if Ms. Mei ever actually signed such agreement. Attached is a copy of this Agreement.) For some reason, RWQCB did not approve the workplan until May 17, 2011, at which point the property was owned by GH, although Santiago and GH had no notice or knowledge of the RWQCB approval of Ms. Mei's workplan. Next, RWQCB issued an NOV on March 8, 2017 to Ms. Mei and the Lopezes almost a decade after Ms. Mei submitted a workplan. Again, Mr. Santiago and GH had no knowledge of this.

In any event, there have been no dry cleaner operations during the period Mr. Santiago or GH owned it. Instead, the property has been occupied by a restaurant and a yoga studio. Frankly, the September 14, 2017 Order and its contents came as a surprise to Mr. Santiago and GH. Indeed, the Order directs the recipient to implement a workplan submitted by Ms. Mei in October 2008.

My clients are understandably frustrated by the failure to compel Ms. Mei to perform work for over a decade. RWQCB was correct to issue the NOV, but it does not follow why RWQCB did not take further action as is typical with failure to comply with an NOV. RWQCB should be looking to the responsible party to implement the

previously submitted and approved workplan. Please let us know what communications RWQCB had with Ms. Mei, and please confirm RWQCB will pursue Ms. Mei as indicated in the NOV.

As to Mr. Santiago and GH, Water Code Section 13267 applies to any person who has discharged, discharges, or is suspected of having discharged or discharging waste. This does not encompass Mr. Santiago, and it was incorrect to issue the Order to him. *Petition of Wenwest, Inc.*, Order WQ 92-13, is directly on point. Therein, Wendy's International ("Wendy's") was issued an Order; Wendy's was a former landowner who purchased the site briefly to convey it to a franchisee, and whose ownership interest did not cover the time when the discharge activity took place. The State of California Water Control Board held identifying Wendy's as a discharger was improper, and ordered that the Order be amended to remove Wendy's entirely. The Board held, "No order issued by this Board has held responsible for a cleanup a former landowner who had no part in the activity which resulted in the discharge of the waste and whose ownership interest did not cover the time during which that activity was taking place." *Id.* at p. 5. This is Mr. Santiago, and he should be removed from the Order.

Additionally, GH should be identified in the Order as secondarily liable to Ms. Mei and to Ms. Lopez and the estate of Mr. Lopez. Again, *Wenwest* is directly on point. Therein, the current owner, Susan Rose, also appealed the Order. The State Board asserted that a current owner could be included as a responsible party, but the Regional Board erred in failing to acknowledge the secondary liability status of the current owner. Citing several prior cases, the State Board explained a blameless current owner should be put in a position where it would have no obligations under the order unless and until the other parties defaulted on their obligations. The opinion directed that the order therein be redrafted to reflect that Ms. Rose be listed as a secondarily responsible party. Here, the Order should be redrafted to clarify GH is secondarily liable to Ms. Mei, Ms. Lopez, and Mr. Lopez's estate, and GH would have no obligations under the order unless and until the other parties defaulted on their obligations. Further, RWQCB should be pursuing Ms. Mei through the NOV process to compel her to comply with her obligations.

Finally, as noted above, Mr. Santiago did not receive the Order until the week of October 23, 2017. Mr. Santiago has not occupied 1024 North Virgil Avenue for three years, and he received the Order delivered there from an occupant at 1020 North Virgil who signed for and accepted it but did not deliver to Mr. Santiago until he saw him a month later. (This occupant has health issues we can discuss that explain the delayed delivery, but delivery to an incorrect address would be considered insufficient.) We are also trying to nail down who may have received the 1617 ½ Victory Boulevard letter on behalf of Gordon Habitat, LLC. On that note, please forward the return receipt for that delivered document. In any event, without waiving any arguments regarding defects in or incomplete service, GH and Mr. Santiago out of caution may submit a Petition for Review Monday, but as indicated, hopefully, we can address the two issues above and promptly dismiss the Petition. To that point, please confirm Mr. Santiago will be removed from the Order, and Gordon Habitat, LLC will be considered secondarily liable to Ms. Mei and potentially the Lopezes.

Regards,  
Brian

Brian D. Langa  
Partner  
DEMETRIOU, DEL GUERCIO, SPRINGER & FRANCIS, LLP  
915 Wilshire Boulevard, Suite 2000  
Los Angeles, California 90017  
Phone (213) 624-8407, ext. 141  
Fax (213) 624-0174  
Email: [blanga@ddsffirm.com](mailto:blanga@ddsffirm.com)  
<http://www.ddsffirm.com/>

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**PROOF OF SERVICE**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I, the undersigned, am employed in the County of Los Angeles, State of California and am over the age of 18 and not a party to the within action. My business address is 915 Wilshire Boulevard, Suite 2000, Los Angeles, California 90017.

On November 20, 2017, I served the following document described as **GORDON HABITAT, LLC AND ED SANTIAGO PETITION FOR REVIEW OF INVESTIGATIVE ORDER NO. R4-2017-0164; REQUEST FOR STAY; DECLARATIONS IN SUPPORT THEREOF** on all interested parties in this action by placing a true copy thereof enclosed in sealed envelopes addressed as follows:

**SEE ATTACHED SERVICE LIST**

**BY MAIL** (CCP § 1013a and 2015.5): I am readily familiar with the firm's practice of collection and processing correspondence for mailing with the United States Postal Service. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

**BY PERSONAL SERVICE:** I caused said envelope to be personally delivered by hand to the above listed addressee(s).

**BY EXPRESS MAIL:** I caused such envelope to be delivered by an overnight delivery courier service, to the addressee(s) as indicated on the attached service list. Such envelope was deposited for delivery by Federal Express, according to the firm's ordinary business practices.

**BY FACSIMILE:** I caused the document(s) listed above to be transmitted by facsimile to the fax number(s) of the addressee(s) as set forth in the attached service list, on this date before 5:00 p.m.

**BY ELECTRONIC MAIL AND/OR E-SERVICE:** I transmitted a true copy of such document(s) described above, via electronic mail to the attached listed addressee(s).

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on November 20, 2017, at Los Angeles, California.



Brenda Tavera

**SERVICE LIST**

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Ms. Adrianna M. Crowl  
State Water Resources Control Board  
Office of Chief Counsel  
P.O. Box 100  
Sacramento, California 95812-0100

Tel: (916) 341-5156  
Fax: (916) 341-5199  
E-mail:  
waterqualitypetitions@waterboards.ca.gov

Mr. Ryan Vitug  
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Board  
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Mr. Samuel Unger, P.E.  
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