STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

EXECUTIVE OFFICER SUMMARY REPORT
MEETING DATE: December 14, 2011

ITEM: **6**

SUBJECT: **Golden Gate Way, LLC, William Peacock, Yolanda M. Peacock, Jeanne K. Stewart, Tommy Lee Stewart, Jeanne's Hamlin Cleaners, Jeanne Stewart dba Hamlin Cleaners, Leonard A. Gross, and Leonard A. Gross Professional Corporation, for the property at 3425 Golden Gate Way, Lafayette, Contra Costa County –** Adoption of Site Cleanup Requirements

CHRONOLOGY: The Board has not considered this matter before.

DISCUSSION: The Revised Tentative Order (Appendix A) would establish site cleanup requirements for a former dry cleaner facility in Lafayette that has contaminated soil and groundwater with solvents. The Revised Tentative Order names dischargers who will be responsible for site cleanup, sets cleanup standards, requires investigation and cleanup, and includes an implementation schedule.

The site is located in a mixed residential and commercial area of Lafayette, adjacent to Lafayette Creek. A dry cleaning business, Hamlin Cleaners, operated at the site from 1956 to 1999. Over this period, Hamlin Cleaners was run by several different operators and the property had several different owners. In 2008, the current landowner discovered dry cleaning solvent contamination in soil and groundwater beneath the site. Subsequent site investigations found that solvent-impacted groundwater has migrated southward from the site in the direction of the creek and nearby multi-family residences. The current landowner installed and operated a soil vapor extraction system to prevent vapor intrusion into occupied buildings. However, additional investigation and cleanup work is needed. So far, the current landowner, who recently requested that the Board name all appropriate parties to a cleanup order, has conducted all work.

The Board's Toxics Cleanup Division staff (staff) circulated a tentative order for public comment in early October. The tentative order named the current landowner (Golden Gate Associates and Golden Gate Way, LLC) as well as several past owners and operators. Staff received comments from four parties (Appendix B):

- Barry Gross, on behalf of his father, Leonard Gross, a former landowner
- Contra Costa County Flood Control and Water Conservation District
- Scott Monroe, a former landowner
- former Hamlin Cleaners operators

The majority of the comments focus on the issue of which dischargers should be named. In general, the Board has named a party as a discharger if the party caused the discharge (e.g., a dry cleaner operator), if the party was in a position of control at the time of the discharge (e.g., a landowner), or if the party is the current landowner. There appears to be consensus on most named dischargers. However, two specific issues remain:

1) Should the cleanup order name Scott Monroe, a former landowner?
2) Should the cleanup order name Leonard Gross and the Leonard Gross Professional Corporation, former landowners?

In each case, the former landowner has argued against being named, while the former operators have argued the opposite.

Staff's response to comments (Appendix C) provides a short summary of key comments and their response to each. They conclude that Scott Monroe *should not* be named because the circumstances of his ownership are unusual and do not meet the standard for naming a party to a cleanup order. They also conclude that Leonard Gross and Leonard Gross Professional Corporation *should* be named because both exercised substantial control during their period of ownership. The Revised Tentative Order prepared by staff reflects this conclusion.

As of this writing, it seems likely that this item will be contested over one or both of the naming issues.

RECOMMEN-DATION: I will have a recommendation at the end of the hearing.

File Nos. 07S0197 (bgs)

Appendices:
A. Revised Tentative Order
B. Public Comments
C. Response to Comments
D. Location Map