



California Regional Water Quality Control Board Central Valley Region



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Arnold Schwarzenegger
Governor

12 January 2007

CERTIFIED MAIL
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Jesse M. Lange Distributor, Inc.
P.O. Box 1036
Chico CA 95927

FINAL CLEANUP AND ABATEMENT ORDER R5-2007-0701, SLIC CASE #2050094, UST CASE #040134, JESSE M. LANGE DISTRIBUTOR, INC., 11226 MIDWAY, CHICO, BUTTE COUNTY

On 28 November 2006 Regional Water Quality Control Board Central Valley staff requested comments on a draft Cleanup and Abatement Order to Jesse M. Lange Distributor (Lange Distributor, Discharger). See the attached technical memorandum for Regional Water Board staff responses to comments.

Enclosed is Final Cleanup and Abatement Order R5-2007-0701, issued pursuant to Section 13304 of the California Water Code for the discharges of waste, and threatened discharges of waste. This Order generally responds to the Discharger's 13 October 2006 revised Remedial Action Plan, incorporates comments, and partially rescinds Cleanup and Abatement Order 99-709. Specifically, this Order instructs the Discharger to do the following:

- **Immediately** finalize installation of the on-site dual phase extraction (DPE) system and begin operations.
- Submit **by 31 January 2007** work plans for a baseline study and Public Participation Plan with an enclosed time schedule for implementation.
- Submit **by 27 April 2007** a draft Remedial Action Plan (RAP). Upon Regional Water Board staff approval, submit the draft RAP for a **30-day public comment period**. Submit **by 31 June 2007** a Final Remediation Plan (FRP) for total cleanup with a time schedule for implementation on all affected properties. **Within 30 days of Regional Water Board staff's approval of the FRP but no later than 31 July 2007**, begin implementation of the approved remedial actions.
- Submit for remediation system(s), **Monthly Status Reports** for the first three months of operation of any new systems. Include **with the second status report** a proposal to correct further migration of petroleum waste constituents beyond the treatment volume. Submit **Quarterly Status Reports** by the 1st day of the second month after the calendar quarter thereafter.



Failure to comply with the enclosed Order may result in further enforcement action pursuant to Section 13350 of the California Water Code, which may result in civil liabilities of up to five thousand dollars (\$5,000) to fifteen thousand dollars (\$15,000) per day for each violation. In addition, the Board may seek injunctive relief by authorizing the Attorney General to petition the Superior Court for an injunction requiring compliance with the Order. The Court may grant a prohibitory injunction stopping all activities until compliance is achieved.

If you have any questions, please contact Eric Rapport of my staff at (530) 224-4998 or the letterhead address.

Original Signed By:

JAMES C. PEDRI, P.E.
Assistant Executive Officer
Shasta Cascade Watershed

EJR: sae

Enclosures: Technical Memorandum, Cleanup and Abatement Order

cc+enclosures: Pamela Creedon, Regional Board, Sacramento
Frances McChesney, State Board, Sacramento
Bob Trommer, State Board UST Cleanup Fund, Sacramento
Vance Severin, Butte County Department of Environmental Health,
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CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

CLEANUP AND ABATEMENT ORDER NO. R5-2007-0701

FOR

JESSE M. LANGE DISTRIBUTOR INC., A CALIFORNIA CORPORATION

JOHN P. CROWSTON,

AND

REBECCA L. CROWSTON

BUTTE COUNTY

This Cleanup and Abatement Order (hereafter Order) is issued to Jesse M. Lange Distributor Inc., a California Corporation, John P. Crowston, and Rebecca L. Crowston, hereafter Dischargers, based on provisions of California Water Code Section 13304, which authorizes the Regional Water Quality Control Board, Central Valley (Regional Water Board) to issue an Order, and Water Code section 13267, which authorizes the Regional Water Board to require preparation and submittal of technical and monitoring reports.

The Regional Water Board finds, with respect to the Dischargers' acts or failure to act, the following:

INTRODUCTION

1. Jesse M. Lange Distributor Inc., a California Corporation (hereafter Lange Distributor) is current fee title owner of Butte County Assessors' Parcel Number 040-320-013, 1.41 acres, Chico, Butte County, Section 1, T21N, R1E, MDB&M. On the parcel, John P. Crowston and Rebecca L. Crowston co-own and operate the corporation at 11226 Midway. William Crowston previously owned and operated the corporation. Lange Distributor is a petroleum fuel retailer and convenience store, but was formerly a bulk fuel supplier.
2. The Regional Water Board Executive Officer issued Cleanup and Abatement Order No. 99-709 (hereafter 1999 CAO) and Amended Cleanup and Abatement Order No. 99-709 (hereafter Amended 1999 CAO) to Jesse M. Lange Distributing, Inc. Lange Distributor has partially cleaned up free phase gasoline and dissolved petroleum constituents from the parcel in response to those Orders.
3. The discharge has migrated off-site into land owned by the City of Chico, Pacific Gas and Electric Company (hereafter PG&E), former North Valley Iron (hereafter NVI), former Western Petroleum Marketers, Inc., and Kinder Morgan Energy Partners, SFPP, L.P. See Attachment 1, a map of pollution in shallow groundwater. The extent of waste discharged to deeper groundwater is not fully defined.

Jesse M. Lange Distributor, Inc., a California Corporation, John P. Crowston, and Rebecca L. Crowston, Chico, Butte County

4. Due to off-site pollution, on 13 June 2005, PG&E filed suit against Lange Distributor, John P. Crowston, Rebecca Crowston, Jesse M. Lange, Cleo L. Lange, Elizabeth Avery, Jesse Marlin Lange Trusts, Center Land Co., Inc., Center Land Co. of Texas, Inc., Michael R. Curry, Shell Oil Co., and others under the Federal Resource Conservation and Recovery Act (RCRA), 42 U.S.C., Section 6972(a)(1)(A), Case No. 2:05-CV-01180 DFL/KJM, United States District Court, Eastern District of California.
5. On 17 May 2006, the Executive Officer issued Administrative Civil Liability Complaint No. R5-2005-0513 (hereafter ACL Complaint) for failure to comply with the Amended 1999 CAO. On 3 June 2005, Lange Distributor waived its right to public hearing. Since issuance of the ACLC, Lange Distributor has resumed interim cleanup, submitted a revised Corrective Action Plan (hereafter 2006 CAP) for final cleanup, and is negotiating toward a potential settlement with PG&E. The \$500,000 ACLC has not been resolved. This Order partially rescinds the Amended 1999 CAO, but does not relieve the Dischargers of liability for violations of that Order. The Amended 1999 CAO remains subject to enforcement, including but not limited to, the Regional Water Board requiring payment of a portion or all of the monetary liability proposed to be assessed in the ACL Complaint.

TITLE AND OPERATIONAL HISTORY

6. Based on consultants' reports, petroleum distribution operations began in the 1920s on former Butte County Assessors' Parcel Number (APN) 040-320-007, 1.05 acres. Historical operations may have extended beyond the parcel. From 1922 to 1969, property owners included Vern Thomasson et al, Shell Company of California, Shell Company of California, a Corporation, and Shell Oil Company. On 29 August 1969, Shell Oil Company granted former APN 040-320-007 to Cleo L. Lange and Jesse M. Lange.
7. On 2 January 1970, Lange Distributor filed as California Corporation No. C0589059, now active. The agent for service of process is John P. Crowston. Based on consultants' reports, in 1978 William Crowston bought 'Jesse M. Lange Distributing, Inc.' [sic]. However as of 6 August 1979, Cleo L. Lange and Jesse M. Lange likely owned former APN 040-320-007.
8. On 26 January 1988, a Decree of Distribution was filed for Jesse Marlin Lange. On 23 March 1988, Cleo L. Lange, trustee of Jesse Marlin Lange Trusts A and B dated 19 January 1988, transferred the former parcel to Cleo L. Lange, trustee of Jesse Marlin Lange Trust A dated 19 January 1988.
9. It appears from Butte County title records that on 14 February 1989 Cleo L. Lange, trustee, may have granted former APN-040-320-007 to Lange Distributor. After three recorded transactions in October and November 1992, Center Land Company Inc., a California Corporation, granted a portion of former APN 040-310-081 to Lange Distributor. Also in 1992, the Butte County Tax Assessor combined former APN 040-320-007 with former APN 040-310-081 to form APN 040-320-013, 1.41 acres.

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Lange Distributor is current fee title owner of the newly designated parcel. A portion of former APN 040-310-081 became inactive and is now part of an adjacent bicycle path in APN 040-310-088.

10. Prior to 1998, Lange Distributor stored and dispensed gasoline, diesel fuel, and kerosene from five aboveground storage tanks, total capacity of 120,000 gallons, and Stoddard solvent and gasoline from two single-walled steel underground storage tanks (USTs), total capacity of 20,000 gallons. Heating oil USTs, likely inactive as of 1998, had identified total capacity of 850 gallons. In October 1998, Lange Distributor removed the Stoddard solvent and gasoline USTs.
11. On 13 January 1999, John P. Crowston filed with the California Secretary of State as president of Lange Distributor. As of this date, John P. Crowston and Rebecca L. Crowston, Secretary and Chief Financial Officer, each appeared to own 50% of the corporation. Mr. Crowston operated the fuel distribution system. Mrs. Crowston handled payroll, billing, taxes, etc. Early in 2000, Lange Distributor removed a 500-gallon heating oil UST. In December 2000, Lange Distributor installed a new UST system, three fiberglass tanks, 42,000 gallons in total capacity; these hold gasoline, diesel fuel, and kerosene. In 2001, Lange Distributor removed a 350-gallon heating oil UST and the AST system.

LIABILITY FOR WASTE DISCHARGE

12. On 19 December 1994, Lange Distributor sampled soil from unspecified depths and locations near the Stoddard solvent and/or gasoline USTs reportedly to comply with tank lining permit requirements. Laboratory results showed concentrations in soil of Total Petroleum Hydrocarbons as gasoline and diesel (TPHg and TPHd) up to 1,900 and 3,200 milligrams/Kilogram (mg/Kg), and Benzene, Toluene, Ethylbenzene, and Xylenes (BTEX) up to 2.4, 23, 15, and 81 mg/Kg, respectively. Based on those results, on 13 March 1995 William Crowston, owner/operator of Lange Distributor, signed and filed an Underground Storage Tank Unauthorized Release (LEAK)/Contamination Site Report with Butte County Division of Environmental Health.
13. On 18 April 1997, six shallow borings on-site had TPHg and BTEX concentrations in soil up to 8,900, 160, 220, 70, and 490 mg/Kg, respectively, and Methyl tert-Butyl Ether (MtBE) up to 840 mg/Kg. Preliminary groundwater samples from about 10 feet below grade surface (bgs) had TPHg, BTEX, and MtBE concentrations up to 2.8, 190, 180, 38, 210, and 3,700 milligrams/Liter (mg/L), respectively. In June 1997, PG&E crews reported strong fuel odors in their nearby utility vault within about 100 feet of Lange Distributor. Shortly thereafter, the City of Chico reported similar vapors in their excavation along Midway, an adjacent right-of-way, less than 50 feet from Lange Distributor.

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14. Due to potential pollution sources from both ASTs and USTs, in December 1997 the State Water Resources Control Board UST Cleanup Fund (hereafter Cleanup Fund) committed to reimburse 20% of investigation and cleanup costs; see Claim No. 12481. The Cleanup Fund assumed the remaining waste discharge was related to ASTs.
15. In 1998, on-site soil gas from about 5 feet bgs had gasoline range purgeable hydrocarbons at concentrations up to 154 micrograms/Liter (ug/L)-vapor indicating a shallow pollutant source. Six on-site monitoring wells showed the water table at about 10 feet bgs and free phase gasoline up to six feet thick. Also in 1998, Regional Water Board staff discovered petroleum waste constituents in two nearby private domestic wells at NVI and the former Western Petroleum Marketers, Inc. facility. Both wells, now destroyed under Butte County permit, were within 200 feet of Lange Distributor. In October 1998, excavation crews encountered free phase gasoline and heavily stained soils during removal of the steel gasoline UST; see Finding 10. On 29 October 1998, a sensitive receptor survey reported more than 40 private domestic and irrigation wells within one mile of Lange Distributor. Due to the identified pollution source and threats to receptors, on 28 April 1999 the Executive Officer issued the 1999 CAO.
16. In August 2000, Lange Distributor directed voluntary soil sampling to request adjustment of Cleanup Fund Claim No. 12481. John P. Crowston personally supervised the sampling. Based on results, the Cleanup Fund granted the request and now reimburses 80% of investigation and cleanup costs. In 2001, data from 63 direct push borings into shallow groundwater suggested free phase gasoline had migrated into the City of Chico right-of-way and the PG&E Chico Service Center, more than 600 feet off-site. Subsequent deeper monitoring wells show petroleum constituents have migrated off-site to depths around 100 feet bgs.
17. As of 11 April 2006, in shallow groundwater, about 10 to 40 feet bgs, the maximum MtBE concentration in monitoring wells was 260,000 ug/L (1,000 ug = 1 mg). Maximum BTEX concentrations were 3,500, 8,500, 7,400, and 17,000 ug/L, respectively. Maximum TPHg and TPHd were 110,000 and 2,400 ug/L, respectively. As of 13 April 2006, maximum MtBE, Toluene, Ethylbenzene, and Xylenes in six new deeper monitoring wells were 83,000, 11, 7.7, and 22.4 ug/L, respectively. In deeper groundwater, about 80 to 100 feet bgs, monitoring wells sample the Modesto B Aquifer from which numerous local private domestic and industrial supply wells draw water. Fifteen such private wells are within 4,000 feet west to southwest of Lange Distributor. Deeper groundwater flows west to southwest. Therefore, MtBE, a mobile and recalcitrant waste constituent, continues to threaten receptor wells.

SITE CLEANUP

18. From December 2001 through April 2002, Lange Distributor removed the AST system and associated polluted soils, and installed a free product recovery trench. In July 2002, Lange Distributor upgraded the trench. On 27 November 2002, Lange

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Distributor submitted a CAP (hereafter 2002 CAP) that recommended further free product recovery, dual phase extraction, further off-site investigation, and pilot tests for in-situ cleanup methods.

19. Based on the 2002 CAP, on 7 February 2003 the Regional Water Board Executive Officer issued the Amended 1999 Order. In response, in February and April 2003 Lange Distributor submitted appropriate work plans and received Regional Water Board staff approval to continue site investigation and cleanup.
20. However, in October 2003 John P. Crowston and Rebecca L. Crowston, co-owners of Lange Distributor, stopped work and stopped paying Regional Water Board staff oversight costs. As a result, waste constituents continue to migrate and the Dischargers may have obtained an economic benefit. After follow-up site inspections and staff recommendations, on 17 May 2005, the Regional Water Board Executive Officer issued the ACL Complaint with a proposed civil liability of \$500,000.
21. On 29 June 2005, Lange Distributor resumed interim remedial actions, on-site dual phase extraction (DPE) with off-site wastewater disposal. On 1 July 2005, Lange Distributor's legal counsel requested the Regional Water Board hold the proposed liability of the ACL Complaint in abeyance. After gaining access from NVI and PG&E, and Regional Water Board staff approvals, in March 2006 Lange Distributor installed six deep off-site monitoring wells; see Finding 17.
22. On 28 July 2006, Lange Distributor presented a draft Corrective Action Plan (CAP) to the Regional Water Board Executive Officer and PG&E technical staff. From March to August 2006, Lange Distributor began to upgrade the on-site DPE system; the system is not yet operational. On 31 August 2006, Lange Distributor submitted the 2006 CAP. Based on conditional approval of the 2006 CAP and related technical comments, on 13 October 2006 Lange Distributor submitted a revised Remedial Action Plan (RAP); this generally proposes to further define the extent of waste constituents in groundwater, to conduct DPE and bio-stimulation in shallow groundwater and ozone micro-bubble sparging in deeper groundwater, to conduct a screening level human health risk assessment of indoor air quality, conduct domestic well sampling, and install more monitoring wells. In general, Regional Water Board staff concurs with the revised RAP. However, further information required for the risk assessment could affect proposed cleanup methods. For example, unacceptable volatile organic compound concentrations in indoor air could warrant more aggressive cleanup than proposed. Also, proposed injectants, without appropriate monitoring could create subsurface wastes. Therefore, site conditions warrant a baseline study and public review prior to finalizing the plan.
23. Based on Findings 9 through 22, Lange Distributor is responsible for waste discharge first discovered in 1994. Based on Findings 11, 16, and 20, John P. Crowston and Rebecca L. Crowston are individually responsible for the discharges of waste. While PG&E has named other potentially responsible parties (Finding 4), identified waste discharge, mostly gasoline, was apparently from Lange Distributor's former USTs and

ASTs. Most of the waste at the site was from a former steel gasoline UST that Lange Distributor removed in 1998. The waste discharge has created and continues to create a condition of pollution or nuisance, and, due to threats to receptor wells, warrants high priority based on State Water Resources Control Board Enforcement Policy.

AUTHORITY – LEGAL REQUIREMENTS

24. Section 13304(a) of the California Water Code provides that:

“Any person who has discharged or discharges waste into waters of the state in violation of any waste discharge requirements or other order or prohibition issued by a regional board or the state board, or who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board clean up the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including but not limited to, overseeing cleanup and abatement efforts. A cleanup and abatement order issued by the state board or a regional board may require the provision of, or payment for, uninterrupted replacement water service, which may include wellhead treatment, to each affected public water supplier or private well owner. Upon failure of any person to comply with the cleanup or abatement order, the Attorney General, at the request of the regional board, shall petition the superior court for that county for the issuance of an injunction requiring the person to comply with the order. In the suit, the court shall have jurisdiction to grant a prohibitory or mandatory injunction, either preliminary or permanent, as the facts may warrant.”

25. Section 13304(f) of the California Water Code provides that:

“Replacement water provided pursuant to subdivision (a) shall meet all applicable federal, state and local drinking water standards and shall have comparable quality to that pumped by the public water system or private well owner prior to the discharge of waste”

26. Section 13267(b)(1) of the California Water Code provides that:

“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 report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.”

27. Section 13304(c)(1) of the California Water Code provides that:

"If waste is cleaned up or the effects of the waste are abated, or, in the case of threatened pollution or nuisance, other necessary remedial action is taken by any government agency, the person or persons who discharged the waste, discharges the waste, or threatened to cause or permit the discharge of the waste within the meaning of subdivision (a), are liable to that government agency to the extent of the reasonable costs actually incurred in cleaning up the waste, abating the effects of the waste, supervising cleanup or abatement activities, or taking other remedial actions. . ."

28. The State Water Resources Control Board (hereafter State Board) has adopted Resolution No. 92-49, the *Policies and Procedures for Investigation and Cleanup and Abatement of Discharges Under Water Code Section 13304*. This Policy sets forth the policies and procedures to be used during an investigation or cleanup of a polluted site and requires that cleanup levels be consistent with State Board Resolution 68-16, the *Statement of Policy With Respect to Maintaining High Quality of Waters in California*. Resolution 92-49 and the Basin Plan establish the cleanup levels to be achieved. Resolution 92-49 requires the waste to be cleaned up to background, or if that is not reasonable, to an alternative level that is the most stringent level that is economically and technologically feasible in accordance with Title 23, California Code of Regulations (CCR) Section 2550.4. Any alternative cleanup level to background must
- (1) be consistent with the maximum benefit to the people of the state;
 - (2) not unreasonably affect present and anticipated beneficial use of such water; and
 - (3) not result in water quality less than that prescribed in the Basin Plan and applicable Water Quality Control Plans and Policies of the State Board.
29. Chapter IV of the Basin Plan contains the *Policy for Investigation and Cleanup of Contaminated Sites*, which sets forth the Regional Water Board's policy for managing contaminated sites. This policy is based on Water Code Sections 13000 and 13304, Title 23 California Code of Regulations (CCR), Division 3, Chapter 15, and Title 27, Division 2, Subdivision 1 regulations, and State Water Board Resolution Nos. 68-16 and 92-49. The policy includes site investigation, source removal or containment, information required to be submitted for consideration in establishing cleanup levels, and the bases for establishment of soil and groundwater cleanup levels.
30. The State Board adopted the *Water Quality Enforcement Policy*, which states in part:
- "At a minimum, cleanup levels must be sufficiently stringent to fully support beneficial uses, unless the RWQCB allows a containment zone. In the interim, and if restoration of background water quality cannot be achieved, the CAO should require the discharger(s) to abate the effects of the discharge. Abatement activities may include the provision of alternate water supplies." (Enforcement Policy, p. 19.)"*
31. The Water Board's *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, 4th Edition* (hereafter Basin Plan) designates beneficial uses of the waters of the State, establishes water quality objectives (WQOs) to protect these uses, and establishes implementation policies to implement WQOs. The designated

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beneficial uses of the groundwater beneath the Site are domestic, municipal, industrial, and agricultural supply.

32. The petroleum hydrocarbon wastes detected at the site are not naturally occurring, and some are known human carcinogens. These wastes impair or threaten to impair the beneficial uses of the groundwater.
33. WQOs listed in the Basin Plan include numeric WQOs, e.g., state drinking water maximum contaminant levels (MCLs), and narrative WQOs, including the narrative toxicity objective and the narrative tastes and odors objective for surface and groundwater. Chapter IV of the Basin Plan contains the *Policy for Application of Water Quality Objectives*, which provides that “[w]here compliance with narrative objectives is required (i.e., where the objectives are applicable to protect specified beneficial uses), the Regional Water Board will, on a case-by-case basis, adopt numerical limitations in orders which will implement the narrative objectives.” Testing of petroleum hydrocarbons has identified a number of constituents that are not present in groundwater unaffected by the discharge and that could exceed a narrative WQO. All of these are constituents of concern. The numerical limits for the constituents of concern listed in the following table implement the Basin Plan WQOs.

Constituent	Limits	WQO	Reference
Total Petroleum Hydrocarbons as Gasoline	5 µg/l	Tastes and Odors	McKee & Wolf, <i>Water Quality Criteria</i> , SWRCB, p. 230
Benzene	0.15 µg/l	Toxicity	California Public Health Goal (OEHHA)
Toluene	42 µg/l	Taste and Odor	Federal Register, Vol. 54, No. 97
Ethylbenzene	29 µg/l	Taste and Odor	Federal Register, Vol. 54, No. 97
Xylene	17 µg/l	Taste and Odor	Federal Register, Vol. 54, No. 97
MTBE	5 µg/l	Taste and Odor	Federal Register, Vol. 54, No. 97

ug/L= micrograms per liter

34. The constituents listed in Findings 12, 13, and 17 are wastes as defined in California Water Code Section 13050(d). The groundwater exceeds the WQOs for the constituents listed in Finding No. 33. TPHg, BTEX, and MtBE all exceed related numerical limits. The exceedance of applicable WQOs in the Basin Plan constitutes pollution as defined in California Water Code Section 13050(l)(1).
35. The constituents listed in Finding No. 33 are present in groundwater due to the disposal of wastes from the Site, are injurious to health or impart objectionable taste and odor when present in drinking water, and affect a considerable number of persons. As such, a condition of nuisance is created, as defined in California Water Code Section 13050(m).

DISCHARGER LIABILITY

36. As described in Findings 9 through 11, the Dischargers are subject to an order pursuant to Water Code section 13304 because the Dischargers have caused or permitted waste to be discharged or deposited where it has discharged to waters of the state and has created, and continues to threaten to create, a condition of pollution or nuisance. The condition of pollution is a priority violation and issuance or adoption of a cleanup or abatement order pursuant to Water Code Section 13304 is appropriate and consistent with policies of the Water Board
37. This Order requires investigation and cleanup of the site in compliance with the Water Code, the applicable Basin Plan, Resolution 92-49, and other applicable plans, policies, and regulations.
38. As described in Findings 12 through 17, the Dischargers are subject to an order pursuant to Water Code section 13267 to submit technical reports because existing data and information about the site indicate that waste has been discharged, is discharging, or is suspected of discharging, at the property, which is or was owned and/or operated by the Dischargers named in this Order. The technical reports required by this Order are necessary to assure compliance with Section 13304 of the California Water Code, including to adequately investigate and cleanup the site to protect the beneficial uses of waters of the state, to protect against nuisance, and to protect human health and the environment.
39. If the Dischargers fail to comply with this Order, the Executive Officer may request the Attorney General to petition the superior court for the issuance of an injunction.
40. If the Dischargers violate this Order, the Dischargers may be liable civilly in a monetary amount provided by the Water Code.
41. The issuance of this Order is an enforcement action taken by a regulatory agency and is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 21000, et seq.), pursuant to Title 14 CCR Section 15321(a)(2). The implementation of this Order is also an action to assure the restoration of the environment and is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 21000, et seq.), in accordance with Title 14 CCR, Sections 15308 and 15330.
42. Any person affected by this action of the Regional Water Board may petition the State Water Board to review the action in accordance with Title 23 CCR Sections 2050-2068. The regulations may be provided upon request and are available at www.swrcb.ca.gov. The State Board must receive the petition within 30 days of the date of this Order.

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IT IS HEREBY ORDERED that, pursuant to California Water Code Division 7, including Section 13304 and Section 13267, Jesse M. Lange Distributor, Inc., a California Corporation, John P. Crowston, and Rebecca L. Crowston (hereafter Dischargers) shall:

Further investigate waste discharged from current and former petroleum facilities at 11226 Midway, Chico, Butte County, and cleanup the waste and abate the effects of such waste, forthwith, in conformance with State Water Resources Control Board Resolution No. 92-49 *Policies and Procedures for Investigation and Cleanup and Abatement of Discharges Under Water Code Section 13304* and with the Regional Water Board's *Water Quality Control Plan for the Sacramento River and San Joaquin Basins* (in particular the Policies and Plans listed within the Control Action Considerations portion of Chapter IV), other applicable state and local laws, and consistent with HSC Division 20, chapter 6.8. "Forthwith" means as soon as is reasonably possible.

All work and reports shall follow the *Appendix A - Reports, Tri-Regional Recommendations for Preliminary Investigation and Evaluation of Underground Storage Tank Sites* (which may be found at http://www.waterboards.ca.gov/centralvalley.available_documents/ug_tanks/Tri-Regionals_Appendix_A.pdf) and under permits required by State, County, and/or Local agencies.

Compliance with this requirement shall include, but not be limited to completing the tasks listed below. The Dischargers shall:

1. **Immediately** complete installation of the partially constructed on-site dual phase extraction system and begin operations based on appropriate estimates of maximum recoverable free phase product. Begin weekly monitoring for free phase product. Maintain product thickness in on-site monitoring wells to less than 0.1 millimeters.
2. Submit **by 31 January 2007** a work plan for a baseline study with an enclosed time schedule for implementation. Implement the plan according to the time schedule. Scope of work should include, but is not limited to;
 - Indoor and ambient air quality sampling sufficient to perform a screening level health risk assessment of subsurface vapor intrusion into indoor air, in conformance with Department of Toxic Substances Control's "Guidance for Evaluation and Migration of Subsurface Vapor Intrusion to Indoor Air" (interim final, 7 February 2005).
 - Groundwater and soil sampling for free phase product, electron-accepting processes, fraction of organic carbon, and other parameters sufficient to estimate sorbed and mobile pollutant mass, pollutant bio-degradation rates, and non-pollutant competitors for oxidants.
 - Groundwater and soil sampling for CAM 17 metals, bromide, and other parameters sufficient to assess safe ranges of pH and Eh (Oxidation-Reduction Potential, ORP) to prevent forming ionic wastes during cleanup.

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- Permeability measurements and appropriate bench tests sufficient to predict radius of influence per injectant at feasible concentration ranges.
 - Door-to-door survey of water supply wells in feasible down-gradient directions from the waste discharge. The survey should, at minimum, generally cover an area as follows: with a radius extending 4,000 feet from the Lange Distributor facility center, northern extent is along the radius, on a bearing of about North 60 degrees West (N 60° W) from the facility center. Rotating the radius south through 70°, southern extent is along the radius on a bearing of about S 50° W. Western extent is the along the resulting arc. This area should, at minimum, fully encompass previously identified water supply wells on and near Myers and Ivy Streets, and Estes Drive.
 - Recommendations for appropriate domestic well sampling based on survey results.
 - Further monitoring wells sufficient to define pollution extent and protect sensitive receptors.
3. Submit **by 31 January 2007**, a work plan and time schedule for a *Public Participation Plan*. Implement appropriate tasks in the plan according to the time schedule. The *Public Participation Plan* shall solicit the public's concerns and disseminate information to the public regarding the investigation and proposed cleanup activities at the sites. The *Public Participation Plan* shall be updated as necessary to reflect any significant changes in the degree of public interest as the site investigation and cleanup process moves toward completion.
 4. Submit **by 27 April 2007**, submit a draft RAP based on optimum free product recovery calculations from the DPE system and findings of the baseline study. Include certification that no proposed cleanup could form a subsurface waste and thereby create a condition of pollution or nuisance as defined in Section 13304(a), California Water Code. The draft RAP shall also certify that proposed cleanup methods adequately protect identified sensitive receptors and will cost effectively clean up waste to the maximum extent feasible to meet numerical limits the Regional Water Board uses for its Water Quality Objectives. Upon Regional Water Board staff approval, submit the draft RAP for a **30-day public comment period**. Coordinate with Regional Water Board staff on appropriate public noticing, maintenance of publicly available documents, and comment management.
 5. **By 31 June 2007**, submit a Final Remediation Plan (FRP) for total cleanup with a time schedule for implementation on all affected properties. Implement the FRP according to the time schedule. The FRP should include, but is not limited to detailed designs and technical support for all proposed treatments, monitoring, and associated waste treatment and discharge.
 6. **Within 30 days of Regional Water Board staff's approval of the FRP but no later than 31 July 2007**, begin implementation of the approved remedial actions and complete the implementation in accordance with the approved time schedule.

7. Submit for remediation system(s), **Monthly Status Reports** for the first three months of operation of any new systems. At a minimum, the monthly status reports shall include:
 - site maps indicating the capture zone and waste plumes,
 - average extraction rates of all treatment systems,
 - influent and effluent concentrations of TPHg, Benzene, Toluene, Ethylbenzene, Xylenes, MtBE and other fuel oxygenates
 - mass of hydrocarbons treated during the reporting period and cumulative to date,
 - estimated mass of wastes remaining and predicted time frame for meeting cleanup objectives,
 - running and down time for the remediation system(s),
 - summary of consultant visits to the site, and evaluation of the overall remediation program and recommendations to correct deficiencies or increase efficiency.
8. The Dischargers shall ensure that cleanup methods cause no further migration of the waste constituents in groundwater. If monthly or quarterly sampling results indicate further migration of petroleum waste constituents beyond the treatment volume, the Dischargers shall include **with the second status report** a proposal to correct the condition. The proposed actions shall be completed **within 60 days** of staff approval of the proposal
8. Monitor and sample **quarterly** all monitoring wells for TPHg, Benzene, Toluene, Ethylbenzene, total Xylenes, seven fuel oxygenates (MtBE and others), dissolved oxygen, oxidation-reduction potential, pH, Iron II, nitrate, sulfate, and Methane until otherwise directed in writing by the Executive Officer or her representative(s). Also sample **quarterly** domestic wells potentially threatened by the waste discharge for drinking water analytical methods of full list volatile organic compounds. Method Detection Limits (MDLs) shall be derived by the laboratory for each analytical procedure, according to State of California laboratory accreditation procedures. The MDLs shall reflect the detection capabilities of the specific analytical procedure and equipment used by the lab, rather than simply being quoted from USEPA analytical method manuals. In relatively interference-free water, laboratory-derived MDLs are expected to closely agree with published USEPA MDLs.
9. Submit **Quarterly Status Reports** by the 1st day of the second month after the calendar quarter in which the samples were collected. The first quarter report is due **1 May**, the second quarter report is due **1 August**, the third quarter report is due **1 November**, and the fourth quarter report is due **1 February**. Quarterly reports are to include the information specified in *Appendix A - Reports, Tri-Regional Recommendations for Preliminary Investigation and Evaluation of Underground Storage Tank Sites*. Regional Water Board staff will review Quarterly Status Reports for adequacy relative to further site investigation and cleanup. Based on such reviews, the Regional Water Board Executive Officer may, at her discretion, issue additional site-specific monitoring and reporting requirements, which would become part of this Order.

GENERAL REQUIREMENTS

The Dischargers shall:

10. Continue to reimburse the Regional Water Board for reasonable costs associated with staff oversight of investigation and cleanup. Failure to do so shall be considered a violation of this Order.
11. As required by the California Business and Professions Code Sections 6735, 7835, and 7835.1, have appropriate reports prepared by, or under the supervision of, a registered professional engineer or geologist and signed by the registered professional. All technical reports submitted by the Dischargers shall include a cover letter signed by the Dischargers, or an authorized representative, certifying under penalty of law that the signers have examined and is familiar with the report and that to their knowledge, the report is true, complete, and accurate. The Dischargers shall also state if they agree with any recommendations/proposals and whether they approved implementation of said proposals.
12. Upon startup of any remediation system(s), operate the remediation system(s) continuously, except for periodic and required maintenance or unpreventable equipment failure. The Dischargers shall notify the Water Board within 24 hours of any unscheduled shutdown of the remediation system(s) that lasts longer than 48 hours. This notification shall include the cause of the shutdown and the corrective action taken (or proposed to be taken) to restart the system. Any interruptions in the operation of the remediation system(s), other than for maintenance, emergencies, or equipment failure, without prior approval from Water Board staff or without notifying the Water Board within the specified time is a violation of this Order. Within 7 working days of a shutdown, the Dischargers shall submit a Technical Report containing at a minimum, but not limited to the following information:
 - times and dates equipment were not working,
 - cause of shutdown,
 - if not already restarted, a time schedule for restarting the equipment, and,
 - a Cleanup Assurance Plan to ensure that similar shutdowns do not reoccur. Proposed Cleanup Assurance Plans are to be completed within 30 days of the system shutdown.
13. Notify Regional Water Board staff at least three working days prior to any onsite work, testing, or sampling that pertains to environmental remediation and investigation and is not routine monitoring, maintenance, or inspection.
14. Obtain all local and state permits and access agreements necessary to fulfill the requirements of this Order prior to beginning the work.

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15. Comply with appropriate County regulations to prevent further waste discharge due to normal business operations.
16. Continue any remediation or monitoring activities until such time as the Executive Officer determines that sufficient cleanup has been accomplished to fully comply with this Order and this Order has been either amended or rescinded in writing.
17. Optimize remedial systems as needed to improve system efficiency, operating time, and/or waste removal rates, and report on the effectiveness of the optimization in the quarterly reports.
18. Maintain a sufficient number of monitoring wells to completely define and encompass the waste plume(s). If groundwater monitoring indicates the waste in groundwater has migrated beyond laterally or vertically defined limits during the quarter, then the quarterly monitoring reports must include a work plan and schedule, with work to begin within thirty days of Water Board staff approval, to define the new plume limits.
19. Electronic copies of all reports and analytical results are to be submitted over the Internet to the State Water Board Geographic Environmental Information Management System database (GeoTracker) at <http://geotracker.swrcb.ca.gov>. Electronic submittals shall comply with GeoTracker standards and procedures as specified on the State Board's web site.
20. If the Dischargers are unable to perform any activity or submit any document in compliance with the schedule set forth herein, or in compliance with any work schedule submitted pursuant to this Order and approved by the Executive Officer, the Dischargers may request, in writing, an extension of the time specified. The extension request shall include justification for the delay. Any extension request shall be submitted as soon as the situation is recognized and no later than the compliance date. An extension may be granted by revision of this Order or by a letter from the Executive Officer. Extension requests not approved in writing by the Executive Officer with reference to this order are denied.
21. All work and directives referenced in this Order are required regardless of whether or not the UST Cleanup Fund approves the work for reimbursement.
22. If, in the opinion of the Executive Officer, the Dischargers fail to comply with the provisions of this Order, the Executive Officer may refer this matter to the Attorney General for judicial enforcement or may issue a complaint for administrative civil liability.

Jesse M. Lange Distributor, Inc., a California Corporation, John P. Crowston, and Rebecca L. Crowston, Chico, Butte County

This Order is effective upon the date of signature.

Original Signed By James C. Pedri for:

PAMELA CREEDON, Executive Officer

(Date)

1/11/07

EJR: sae

Attachment 1: Map Showing MtBE Extent in Shallow Groundwater

JesseLangeFinalDraft CAOejr fm

