

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

CLEANUP AND ABATEMENT ORDER NO. R5-2006-0703

FOR

**MR. MOHAMMED SHARIF, MR. ABDUL GHAFOOR AND MR. RAJBIR SARKARIA
FORMER GAS FOR LESS
924 WEST 10TH STREET, ANTIOCH, CONTRA COSTA COUNTY**

This Order is issued to Mr. Mohammed Sharif (current owner), Mr. Abdul Ghafoor (former owner) and Mr. Rajbir Sarkaria (former operator) of the Former Gas for Less (hereafter known as "Dischargers"), based on provisions of California Water Code (CWC) Section 13304, which authorizes the California Regional Water Quality Control Board, Central Valley Region (hereafter Regional Board) to issue a Cleanup and Abatement Order (Order).

The Executive Officer of the Regional Board finds, with respect to the Discharger's acts or failure to act, the following:

1. The Dischargers owned and operated a gas station formerly known as Gas For Less (currently known as U.S. Gasoline) at 924 West 10th Street in Antioch, Contra Costa County. On 8 October 2004, Regional Board staff conducted a title search at the Contra Costa County Recorders Office on the property located at 924 10th Street in Antioch. At that time, Abdul Ghafoor had owned this property since 31 July 1995. On 6 December 2005 the title of the property was transferred to Mohammed Sharif. This property has historically been used as a gas station. According to Contra Costa County records, Rajbir Sarkaria was the operator at the time the gasoline tanks were removed and the release discovered (see Finding #3 below). Mr. Ghafoor and Mr. Sarkaria are subject to this Order because they owned and operated this property at the time that the underground storage tank (UST) system caused or permitted waste to be discharged to waters of the state where it has created a condition of pollution or nuisance.
2. On 8 November 2005, Cleanup and Abatement Order No. R5-2005-0717 was issued to Mr. Abdul Ghafoor and Mr. Rajbir Sarkaria directing them to investigate the discharges of waste, clean up the waste and abate the effects of the waste resulting from activities at 924 West 10th Street, Antioch. Mr. Ghafoor sold the property to Mr. Mohammed Sharif on 6 December 2005. Mr. Sharif is subject to this Order because he is now the current property owner, a responsible party and a Discharger. This new Order includes Mr. Sharif and Order No. R5-2005-0717 is rescinded.
3. Three underground storage tanks were removed from the property on 29 March 1999 revealing holes in the tank walls. On April 4, 1999, Joe Griffith of Environet Consulting submitted a leak report to Contra Costa County. Sidewall soil samples contained high levels of total petroleum gasoline hydrocarbons, benzene, toluene, ethylbenzene and xylenes. Tank pit groundwater samples contained up to 272,000 micrograms/liter ($\mu\text{g/l}$) MtBE. A total of 17 soil borings were drilled (B-1 through B-17) on December 14 and 15, 2000, within and around the excavated area. Grab groundwater samples were collected from the borings. The groundwater samples contained up to: 430,000 $\mu\text{g/l}$ gasoline,

99,000 µg/l benzene, and 16,000 µg/l MtBE. The groundwater plume based on grab groundwater samples collected in 2000 can be seen in the enclosed Figure 1. The petroleum hydrocarbon plume extends offsite as evidenced in Figure 1. The depth to groundwater is approximately 7 feet below ground surface. These petroleum constituents constitute "waste" as defined in Water Code section 13050.

4. The Dischargers' consultant, Environet, submitted a 26 February 2001 *Report on Investigation Activities and Work Plan for Additional Investigation* (Work Plan) to install permanent monitoring wells and additional soil borings to complete the site investigation. On 3 April 2001, the Regional Board staff concurred in part and requested (1) an addendum to the work plan be submitted by 20 April 2001 for the relocation of proposed monitoring wells, investigation of the deeper water bearing zone, and installation of 4-inch monitoring wells, (2) the submittal an interim remediation work plan by 20 April 2001, (3) the installation of the on-site monitoring wells by 20 May 2001, (4) the installation of off-site wells by 20 July 2001 and (5) a map showing all sensitive receptors (municipal wells, domestic wells, surface water, etc) within 2000 feet of the site. No additional fieldwork has been conducted since the December 2000 borings were advanced. No monitoring wells have been installed at the site.
5. On 22 March 2002, Environet submitted an Addendum to the Workplan as requested entitled *Update on Site Status and Revised Monitoring Well Locations* that included a site status report and a revised monitoring well location work plan. Regional Board staff reviewed the addendum and in a 28 June 2002 letter approved the proposed work and requested the results be submitted in a report by 20 September 2002. The report was not submitted. On 3 January 2003, the Regional Board staff made a second request in writing for the technical report with a due date of 11 February 2003. To date the proposed work has not been completed and the requested report has not been submitted.
6. Primary Maximum Contaminant Levels are 1 µg/l for benzene, 150 µg/l for toluene, 300 µg/l for ethylbenzene, and 1,750 µg/l for total xylenes. The California Public Health Goal, which is used to interpret the narrative toxicity water quality objectives, for benzene is 0.15 µg/l.
7. Residual hydrocarbon concentrations in soil and groundwater exceed the screening numbers for residential use contained within the *Screening For Environmental Concerns at Sites With Contaminated Soil and Groundwater* (4th edition, February 2005), which is a technical report prepared by staff of the California Regional Water Quality Board, San Francisco Bay Region. The potential for exposure to soil vapor is unknown and must be addressed by the Discharger by conducting a health risk assessment to demonstrate whether the site poses unacceptable risks to human health or the environment.
8. In 2000, Regional Board staff worked with UST Clean Up Fund staff to ensure Mr. Ghafoor's reimbursement eligibility for up to \$1.5 million for site investigation and cleanup costs incurred. To date, approximately \$78,178 has been spent on the 924 West 10th Street account.

9. On 12 September 2003, the Regional Board Executive Officer ordered Mr. Ghafoor and Mr. Sarkaria to submit technical reports in accordance with section 13267 of the California Water Code. On 23 March 2004, the UST Program Manager issued a Notice of Violation pursuant to Water Code Section 13268 to Mr. Ghafoor and Mr. Sarkaria for failing to submit the required reports.
10. On 5 August 2005, the Regional Board adopted Administrative Civil Liability (ACL) Order No. R5-2005-0104, which imposed a \$50,000 administrative civil liability on Mr. Ghafoor and Mr. Sarkaria for violation of the California Water Code Section 13267 Order. The payment was due on 5 September 2005 and was received 7 December 2005.

AUTHORITY – LEGAL REQUIREMENTS

11. The Regional Board's *Water Quality Control Plan for the Central Valley Region Sacramento River and San Joaquin River Basins, Fourth 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 beneficial uses of the groundwater beneath this site are municipal, domestic, industrial and agricultural supply.
12. The wastes detected at the site are not naturally-occurring and some are known human carcinogens. Pollution of groundwater with these constituents impairs or threatens to impair the beneficial uses of the groundwater.
13. Water Quality Objectives (WQOs) listed in the Basin Plan include numeric WQOs, e.g., state drinking water maximum contaminant levels (MCL) that are incorporated by reference, and narrative WQOs, including the narrative toxicity objective and the narrative tastes and odors objective for surface water and groundwater. Chapter IV of the Basin Plan contains the *Policy for Application of Water Quality Objectives*, which provides that "where compliance with narrative objectives is required (i.e., where the objectives are applicable to protect specified beneficial uses), the Regional Board will, on a case-by-case basis, adopt numerical limitations in orders which will implement the narrative objectives." The numerical limits for the constituents of concern listed in the following table implement the Basin Plan WQOs.

| Constituent | Limits | WQO | Reference |
|-----------------|--------|------------|------------------------------------|
| Total Petroleum | 5 µg/l | Tastes and | McKee & Wolf, <i>Water Quality</i> |

| Hydrocarbons as Gasoline | | Odors | <i>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

14. The groundwater concentrations exceed the WQOs for the constituents listed in Finding No. 3. The exceedance of applicable WQOs in the Basin Plan constitutes pollution as defined in California Water Code Section 13050. 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.
15. 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 No. 68-16, the *Statement of Policy With Respect to Maintaining High Quality of Waters in California*. Resolution No. 92-49 and the Basin Plan establish the cleanup levels to be achieved. Resolution No. 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.
16. Chapter IV of the Basin Plan contains the *Policy for Investigation and Cleanup of Contaminated Sites*, which describes the Regional Board's policy for managing contaminated sites. This policy is based on California Water Code Sections 13000 and 13304, the Title 27, Division 2, Subdivision 1 regulations, and State Board Resolution Nos. 68-16 and 92-49. The policy addresses site investigation, source removal or containment, information required to be submitted for consideration in establishing cleanup levels, and the basis for establishment of soil and groundwater cleanup levels.

17. The State Board's Water Quality Enforcement Policy states in part: *"At a minimum, cleanup levels must be sufficiently stringent to fully support beneficial uses, unless the RWQCB [Regional Water Quality Control Board] allows a containment zone. In the interim, and if restoration of background water quality cannot be achieved, the CAO [Cleanup and Abatement] Order 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).

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

"Any person who has discharged or discharges waste into the waters of this 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 Upon failure of any person to comply with the cleanup or abatement order, the Attorney General, at the request of the 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."

19. 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."

The technical reports required by this Order are necessary to assure compliance with Section 13304 of the California Water Code. Existing data and information about the site indicates that waste has been discharged or is discharging at the property, which is owned and operated by the Dischargers named in this Order.

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

“ . . . 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”

21. 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 California Code of Regulations (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.
22. Any person affected by this action of the Regional Board may petition the State 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.

REQUIRED ACTIONS

IT IS HEREBY ORDERED that, pursuant to California Water Code Section 13267 and Section 13304, Mr. Sharif, Mr. Ghafoor and Mr. Sarkaria (Dischargers) shall:

1. Investigate the discharges of waste, clean up the waste, and abate the effects of the waste, forthwith, resulting from activities at 924 West 10th Street, Antioch, in conformance with State 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 Board's *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins* (in particular the Policies and Plans listed within the Control Action Considerations portion of Chapter IV). "Forthwith" means as soon as is reasonably possible. Compliance with this requirement shall include, but not be limited to, completing the tasks listed below.
2. All work and reports shall follow the *Tri-Regional Recommendations for Preliminary Investigation and Evaluation of Underground Storage Tank Sites* in Appendix A (Appendix A) which is attached and made a part of this Order, and under permits required by State, County, and/or Local agencies.

Problem Assessment Report

3. By **28 July 2006**, submit a report documenting the completion of the requisite tasks described in the approved 26 February 2001 Work Plan and associated 22 March 2002 Work Plan Addendum described in Findings 4 and 5. The report shall document the completion of the following: 1) the installation of four 2-inch diameter wells and six 4-inch diameter wells at the approved locations, 2) a cone penetrometer test to investigate the location of the next water bearing zone, 3) an interim remediation plan, 4) a Work Plan for additional shallow and deeper monitoring wells, as appropriate and 5) a map showing all sensitive receptors (municipal wells, domestic wells, surface water, etc.) within 2000 feet of the site.
4. By **31 August 2006**, submit a Problem Assessment Report (PAR) which includes information from the implementation of the Work Plan (requested in Item 3) and sufficient detail on the nature and extent of the release to provide a basis for future decisions regarding subsequent cleanup and abatement actions.

Public Participation

5. By **28 July 2006**, submit a *Public Participation Plan*. 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.

Feasibility Study

6. By **29 September 2006**, submit a complete Feasibility Study that provides a summary of remedial alternatives evaluated to address applicable cleanup levels for the affected or threatened human health and/or waters of the State. The Feasibility Study shall propose at least two remedial technologies that have a substantial likelihood to achieve cleanup of all impacted soils and groundwater and shall include a schedule for achieving cleanup. The remedial technologies must be evaluated with respect to their ability to be implemented, cost, and effectiveness. The Feasibility Study shall include the rationale for selecting the preferred remedial alternative.

Health Risk Assessment

7. By **28 July 2006**, submit a work plan and time schedule for completing a *Health Risk Assessment* (HRA) to demonstrate whether the site poses unacceptable risks to human health or the environment. Inhalation of the volatile components of the waste (e.g., volatile hydrocarbons) must be considered an exposure pathway. The site-specific risk assessment must use the Office of Environmental Health Hazard Assessment (OEHHA) toxicity data (California cancer slopes). Complete the HRA by **18 August 2006**.

Remediation

8. Within **90 days** of Regional Board staff concurrence with the proposed remedial action described in the Feasibility Study, submit a Final Remedial Plan (FRP). The FRP must include a detailed description of the remedial actions to address cleanup of the entire groundwater plume and source area soils. The FRP shall also include a schedule to implement all remedial actions.
9. Within 60 days of Executive Officer approval of the FRP, begin implementation of the approved remedial actions.
10. 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, xylene, 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.
11. Monitor and sample **quarterly** all monitoring wells and threatened offsite water supply wells for TPHg, benzene, toluene, ethylbenzene, total xylenes, and fuel oxygenates including MtBE until otherwise directed in writing by the Executive Officer or his representative(s). 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.
12. Submit **quarterly** monitoring and remediation status reports (paper copies) by the 1st day of the second month after each calendar quarter (May 1st, August 1st, November 1st, February 1st).
13. Optimize remedial systems as needed to improve system efficiency, operating time, and/or pollutant removal rates, and report on the effectiveness of the optimization in the quarterly reports.

14. Notify the Regional Board within **24 hours** of any unapproved shutdown of the remediation system(s). Upon startup of any new remediation system(s), and for the continued operation of any remediation systems, the Dischargers shall operate the systems continuously, except for periodic and routine maintenance. Any interruptions in the operation of the remediation systems, other than routine maintenance, without prior approval from the Executive Officer are 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, and
 - a Corrective Action Plan (CAP) to ensure that similar shutdowns do not reoccur. Proposed CAPs are to be completed within 30 days of the system shutdown.
15. 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 Regional Board staff approval, to define the new plume limits.
16. Notify Regional Board staff at least two working days prior to any work or sampling.
17. Obtain all necessary local and state permits prior to beginning work.
18. Analytical results shall be submitted electronically using the Electronic Deliverable Format (EDF) for analyses of soil and/or groundwater samples, in addition to the customary paper format. In addition to the laboratory data, site-specific information is required to be submitted in electronic format for the following: 1) the latitude and longitude of groundwater monitoring wells (including any other well(s) designated as part of the site monitoring program) accurate to within one meter, 2) the surveyed elevation, relative to mean sea level, for any groundwater sampled, accurate to within a tenth of a foot, 3) groundwater information, including depth to water, free product presence/thickness and well status, and 4) a site map in electronic format (PDF, JIFF, TIFF, JPEG, etc.) showing property boundaries, buildings, and soil and water sampling locations. All EDF data must be submitted over the Internet to the State Water Board Geographic Environmental Information Management System database (GeoTracker) at <http://geotracker.swrcb.ca.gov>.
19. Continue any cleanup 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 rescinded.

20. 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.
21. Ensure that all technical reports and plans, including drilling logs and soil and groundwater sampling, are prepared by, or under the direction of, and signed and certified by a Registered Geologist, Registered Civil Engineer, Certified Engineering Geologist, or Certified Hydrogeologist (all must be licensed by the State of California).
22. If the Discharger is 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 Discharger 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.
23. Order No. R5-2005-0717 is hereby rescinded.

This Order is effective upon the date of signature.

PAMELA CREEDON, Executive Officer

(5-22-2006)