

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

TECHNICAL REPORTING ORDER R5-2009-0867  
CALIFORNIA WATER CODE SECTION 13267  
FOR

DENNIS L. MEYER AND RANDALL & ELIZABETH HICKS  
650 HIGH STREET, AUBURN, PLACER COUNTY

This Order is issued to Dennis L. Meyer and Randall & Elizabeth Hicks (hereafter collectively referred to as Dischargers) pursuant to California Water Code (CWC) section 13267, which authorizes the Executive Officer of the California Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board or Board) to issue an Order (Order) requiring the submittal of technical reports.

The Executive Officer finds:

1. Dennis L. Meyer owned the property at 650 High Street, Auburn, Placer County (APN 002-074-029-000, which is listed as 600 High Street in the Placer County Recorder's Office)(hereafter the Site) and operated petroleum underground storage tanks (USTs) at the Site in June 1988, when an unauthorized release of petroleum hydrocarbons from the Site's UST system was discovered.
2. Randall & Elizabeth Hicks owned and operated petroleum USTs at the Site in April 1993, when a second unauthorized release of petroleum hydrocarbons from the Site's UST system was discovered.
3. Randall & Elizabeth Hicks purchased the property in May 1995 and are the Site's current owners.
4. In June 1988, a leaking product pipe was discovered and repaired. The repair required an excavation, and soil samples were collected at the base of the excavation. The samples demonstrated that an unauthorized release of petroleum hydrocarbons had occurred at the Site.
5. In April 1993, a 500-gallon UST was excavated and removed, and soil samples collected from the base of the excavation indicated that a second unauthorized release of petroleum hydrocarbons had occurred beneath the Site.
6. In an effort to evaluate and monitor the nature and extent of the petroleum releases, multiple soil, soil vapor, and groundwater samples were collected between August 1988 and September 2008. These samples were collected across the extent of the Site's identified hydrocarbon plume.
7. Remedial efforts have reduced petroleum constituent concentrations beneath the Site and only minor concentrations remain. Given current Site conditions, the residual petroleum constituents are expected to attenuate without migrating any significant distance. Therefore, the residual petroleum constituents are unlikely to pose a threat to human health or further affect waters of the state as they continue to degrade.

8. Before the Site can be closed, all property owners who have title to parcels located within 500 feet of the Site must be notified of the Site's closure review and must be given time to submit comments regarding the pending closure. All comments received during this public participation must be adequately addressed prior to case closure.
9. Proper abandonment of all Site monitoring wells, remedial wells, and other subsurface conduits that are no longer needed is necessary to prevent them from acting as preferential pathways. These pathways could exacerbate the deleterious effects of an otherwise minor surface spill.
10. If not properly disposed, residual waste remaining onsite as a result of the investigation, cleanup, and monitoring of the Site could pose a threat to both human health and waters of the state.
11. The Dischargers have not conducted public participation activities or abandoned the Site's wells and other subsurface conduits.

### **LEGAL PROVISIONS**

12. CWC section 13267 reads, in part:

(b)(1) In conducting an investigation . . . , 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 . . . 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 reports required herein are necessary to adequately notify nearby property owners of the proposed closure, and to ensure that the monitoring wells are appropriately addressed as the Site is closed. The reports will ensure protection of waters of the state, and will assist the Board in protecting public health and the environment.

13. CWC section 13268 reads, in part:

(a)(1) Any person failing or refusing to furnish technical or monitoring program reports as required by subdivision (b) of Section 13267 . . . or falsifying any information provided therein, is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b).

(b)(1) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (a) in an amount which shall not exceed one thousand dollars (\$1,000) for each day in which the violation occurs.

(c) Any person discharging hazardous waste, as defined in Section 25117 of the Health and Safety Code, who knowingly fails or refuses to furnish technical or monitoring program reports as required by subdivision (b) of Section 13267, or who knowingly falsifies any information provided in those technical or monitoring program reports, is guilty of a misdemeanor, may be civilly liable in accordance with subdivision (d) ...

(d)(1) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (c) in an amount which shall not exceed five thousand dollars (\$5,000) for each day in which the violation occurs.

Failure to submit the required reports to the Central Valley Water Board according to the schedule detailed herein may result in enforcement action being taken against the Dischargers, which may include the imposition of administrative civil liability pursuant to CWC section 13268. Since petroleum constituents are considered hazardous waste under Health and Safety Code section 25117, the Central Valley Water Board may impose administrative civil liability of up to \$5,000 per day if the Dischargers fail to submit the required work plan by the date set forth below.

14. The California Code of Regulations, title 23, section 2720, defines a responsible party as:

... any person who owns or operates an underground storage tank used for the storage of an hazardous substance... any person who owned or operated the underground storage tank immediately before the discontinuation of its use... any owner of property where an unauthorized release of a hazardous substance from an underground storage tank has occurred, and any person who had or has control over a underground storage tank at the time of or following an unauthorized release of a hazardous substance.

A responsible party has a legal obligation to investigate and remediate contamination. Dennis L. Meyer is a person who had control over a underground storage tank at the time of or following an unauthorized release of a hazardous substance. Randall & Elizabeth Hicks also are persons who had control over a underground storage tank at the time of or following an unauthorized release of a hazardous substance, and are owners of property where an unauthorized release of a hazardous substance from an underground storage tank has occurred. Therefore, the Dischargers are a "person[s] who ha[ve] discharged ... waste" within the meaning of CWC section 13267.

15. Compliance with Central Valley Water Board directives is mandatory in order to be eligible for reimbursement of corrective action costs from the State's Underground Storage Tank Cleanup Fund according to California Code of Regulations, title 23, section 2812.2.
16. All work should be performed according to the *Tri-Regional Recommendations for Preliminary Investigation and Evaluation of Underground Storage Tank Sites*, which is attached hereto and made part of this Order. All work must be completed under all permits required by State, County, and/or Local agencies, and all reports must be submitted to the Central Valley Water Board.

## REQUIRED ACTIONS

**IT IS HEREBY ORDERED** that, pursuant to CWC section 13267 and under penalty of perjury under the laws of the State of California, the Dischargers shall submit a **work plan** by **7 January 2010** to abandon all wells and other subsurface conduits associated with the Site, to conduct public participation activities, and to dispose of any residual waste remaining at the Site. The work plan shall include a time schedule to complete the proposed work and to submit a report documenting the results of the work.

The work plan shall include the following items:

- a. A mailing list of all property owners who have title to parcels located within 500 feet of the Site.
- b. A Fact Sheet describing investigation and cleanup activities that have taken place at the Site thus far.
- c. A proposal to abandon of all groundwater monitoring and remedial wells and subsurface conduits associated with the UST investigation and cleanup at the Site.
- d. A description of and proposal for the proper disposal of any residual waste remaining onsite as a result of investigation, cleanup, and monitoring at the Site, including, but not limited to, drill cuttings and monitoring well purge water.

The Dischargers have informed Central Valley Water Board staff that they intend to remove the Site's UST system and develop the Site as a commercial office complex. To facilitate this redevelopment project, the Dischargers have expressed a desire to maintain the Site's groundwater monitoring well network until the UST system is removed. If the Dischargers choose to maintain the Site's monitoring well network, the Dischargers may **substitute** the requested well abandonment work plan for a work plan to maintain and monitor all Site wells until they are properly abandoned. This **substitute** work plan must still address public participation activities and the disposal of remaining onsite waste.

The Placer County Environmental Health Department maintains jurisdictional authority regarding well abandonment; therefore, the Dischargers shall obtain all applicable permits and clearances required to destroy the Site's wells.

As required by the California Business and Professions Code sections 6735, 7835, and 7835.1, all reports shall be prepared by a registered professional or their subordinate and signed by the registered professional.

Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with CWC 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 (including mandatory furlough days), 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 they will be provided upon request.

This Order is effective upon the date of signature.

Ordered by:

*Original signed by*

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PAMELA C. CREEDON, Executive Officer

11/12/2009

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(Date)