

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

TECHNICAL REPORTING ORDER NO. R5-2009-0838
CALIFORNIA WATER CODE SECTION 13267
FOR
TERRIBLE HERBST OIL COMPANY
FORMER TERRIBLE HERBST STATION #71
13309 MONO WAY, SONORA
TUOLUMNE COUNTY

This Order is issued to Terrible Herbst Oil Company (hereafter Discharger or Terrible Herbst) pursuant to California Water Code section 13267, which authorizes the Executive Officer of the California Regional Water Quality Control Board, Central Valley Region (hereafter Central Valley Water Board) to issue an Order (Order) to submit technical reports.

The Executive Officer finds:

INTRODUCTION

1. The Discharger owns the property at 13309 Mono Way in Sonora, Tuolumne County, California (hereafter Site) and operated a gasoline service station on the property when the discharge occurred.
2. In June and July 1985, the Site's domestic well was found to contain petroleum hydrocarbons. Initial testing of the Site well showed concentrations of 7,800 micrograms per liter ($\mu\text{g/l}$) of benzene. Initial testing of a domestic well located 400 feet west of the Site showed non-detectable concentrations of petroleum hydrocarbon constituents. However, that well was tested several more times in 1985 and 1986, and one of the samples contained 200 $\mu\text{g/l}$ of benzene. Eventually, both domestic wells were destroyed and water service provided by the local municipal supply company.
3. On 7-8 April 1999, three 10,000-gallon gasoline underground storage tanks (USTs) were removed from the Site. Maximum soil concentrations under the USTs included 3,400 milligrams per kilogram (mg/kg) of total petroleum hydrocarbons as gasoline (TPHg), 0.01 mg/kg of toluene, 38 mg/kg of ethyl benzene, and 570 mg/kg of total xylenes.
4. On 24 November 1999, about 500 cubic yards of soil were removed from the former UST pit and transported offsite. The final depth of the excavation was 22 feet below ground surface (bgs). Depth to groundwater in the area of the former USTs ranges from 40 to 50 feet bgs.
5. In September 1998, monitoring wells MW-1 through MW-3 were installed at the Site to delineate the groundwater pollution resulting from the discharge.

6. In July 2006, eight soil borings were advanced to 40 to 55 feet bgs, and two of the borings were converted to monitoring wells MW-4 and MW-5. Additional borings were advanced and grab groundwater samples were collected on a downgradient property. The results of this investigation were incorporated into a Feasibility Study/Corrective Action Plan that recommended soil excavation as the chosen remedial alternative.
7. On 13-14 August 2007, about 150 cubic yards of contaminated soil were removed from the fuel dispenser area and transported offsite. The final depth of the excavation was 20 feet bgs.
8. In the First Quarter 2009, monitoring well MW-4, which is located near the former pump island (see Figure 1), contained 5,000 micrograms per liter ($\mu\text{g/l}$) of TPHg and 340 $\mu\text{g/l}$ of benzene. Downgradient well MW-3 contained 1,300 $\mu\text{g/l}$ of TPHg, 4.2 $\mu\text{g/l}$ of benzene, 0.4 $\mu\text{g/l}$ of toluene, 3.4 $\mu\text{g/l}$ of ethyl benzene, 3.2 $\mu\text{g/l}$ of total xylenes and 0.7 $\mu\text{g/l}$ of naphthalene.
9. The plume is stable and centered around MW-4. Concentrations in downgradient well MW-3 have decreased for most constituents since September 2008.
10. As part of the evaluation of the effects of the release, a soil vapor survey and human health risk assessment are needed to determine whether the plume poses a threat to onsite or offsite workers or residents. Results of this work may be used to support site closure.
11. No active remediation other than soil excavation has been conducted at the Site.

LEGAL PROVISIONS

12. CWC section 13267 states, 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 for the reasons described in this Order, to assure protection of waters of the state, and to protect public health and the environment.

13. CWC section 13268 states, 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.

Failure to submit the required reports to the Central Valley Water Board according to the schedule detailed herein may result in enforcement action(s) being taken against Terrible Herbst, which may include the imposition of administrative civil liability pursuant to CWC section 13268. Administrative civil liability of up to \$1,000 per violation per day may be imposed for non-compliance with the directives contained herein.

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. Terrible Herbst is subject to this Order because it owns the property and operated the gasoline station where an unauthorized release of a hazardous substance from a UST occurred. Therefore, Terrible Herbst is a "person who has discharged ... waste" within the meaning of CWC section 13267.

15. State Water Resources Control Board (State Water Board) Resolution No. 2009-0042 directs the Regional Water Boards to reduce monitoring requirements for UST cleanup sites to semi-annually or less frequently, unless site-specific needs warrant otherwise. Semi-annual sampling is appropriate for this Site and shall occur during the first and third quarters of each year.

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 Discharger shall submit the following technical reports:

1. **Soil Vapor Survey Report by 30 October 2009** that evaluates subsurface soil vapor concentrations and their distribution.

2. **Human Health Risk Assessment by 30 October 2009** that assesses all exposure pathways for the remaining hydrocarbon constituents. The Human Health Risk Assessment shall include a plan of action to reduce any risk found and the steps necessary to move the site forward to closure.
3. **Semi-Annual Groundwater Monitoring Reports**

As shown on Figure 1, which is attached hereto and made part of this Order, there are five groundwater monitoring wells associated with the Site (MW-1 through MW-5). MW-1 and MW-2 are to be used for depth to water measurements only, and MW-3 through MW-5 and any wells installed subsequent to the issuance of this Order, shall follow the sampling schedule below.

Wells with free phase petroleum product or a visible sheen shall be monitored, at a minimum, for product thickness and depth to water, and the volume of extracted free phase product and groundwater shall be documented in the monitoring reports. Sample collection and analysis shall follow standard EPA protocol.

Constituents	EPA Analytical Method	Maximum Practical Quantitation Limit ¹ (µg/l)	Sampling Frequency
Depth to Groundwater	---	---	Semi-annual ²
Total Petroleum Hydrocarbons as gasoline	8015M	50	Semi-annual
Benzene	8020 or 8260B	0.5	Semi-annual
Toluene	8020 or 8260B	0.5	Semi-annual
Ethylbenzene	8020 or 8260B	0.5	Semi-annual
Xylene	8020 or 8260B	0.5	Semi-annual
Napthalene	8260B	0.5	Semi-annual

¹ For nondetectable results. All concentrations between the Method Detection Limit and the Practical Quantitation Limit shall be reported as trace.

² Samples shall be collected during the first and third quarters of each year

REPORTING

4. The Discharger shall submit semi-annual hard-copy monitoring reports to the Central Valley Water Board by the **30th day of the month following the end of the quarter sampled (i.e. by 30 April and 30 October)** until such time as the Executive Officer determines that the reports are no longer necessary. In addition and concurrently with the hard-copy reports, the Discharger shall submit electronic copies of the reports and electronic data reports, which conform to the requirements of the California Code of Regulations, Title 23, Division 3, Chapter 30, over the Internet to the State Water Board's Geographic Environmental Information Management System (Geotracker) database system at <https://geotracker.waterboards.ca.gov>. Electronic submittals shall comply with GeoTracker standards and procedures as specified on the State Water Board's web site.

All reports must follow the *Appendix A - Reports, Tri-Regional Recommendations for Preliminary Investigation and Evaluation of Underground Storage Tank Sites* (Appendix A - Reports), which is attached hereto and made a part of this Order. Each semi-annual report shall include the following minimum information:

- a) A description and discussion of the groundwater sampling event and results, including trends in the concentrations of pollutants and groundwater elevations in the wells, how and when samples were collected, and whether the pollutant plume(s) is delineated.
 - b) Field logs that contain, at a minimum, water quality parameters measured before, during, and after purging, method of purging, depth of water, and volume of water purged.
 - c) Groundwater contour maps for all groundwater zones, if applicable.
 - d) Isocontour pollutant concentration maps for all groundwater zones, if applicable.
 - e) A table showing well construction details such as well number, groundwater zone being monitored, coordinates (longitude and latitude), ground surface elevation, reference elevation, elevation of screen, elevation of bentonite, elevation of filter pack, and elevation of well bottom.
 - f) A table showing historical lateral and vertical (if applicable) flow directions and gradients.
 - g) Cumulative data tables containing the water quality analytical results and depth to groundwater.
 - h) A copy of the laboratory analytical data report.
 - i) If applicable, the status of any ongoing remediation, including cumulative information on the mass of pollutant removed from the subsurface, system operating time, the effectiveness of the remediation system, and any field notes pertaining to the operation and maintenance of the system.
 - j) If applicable, the reasons for and duration of all interruptions in the operation of any remediation system, and actions planned or taken to correct and prevent interruptions.
7. In addition to the information above, the 2nd monitoring report due **30 October** of each year shall also contain an evaluation of the effectiveness and progress of the investigation and remediation. The following additional minimum information shall be included:
- a) A description of all remedial activities conducted during the year, an analysis of their effectiveness in removing the pollutants, and plans to improve remediation system effectiveness.

- b) An identification of any data gaps and potential deficiencies/redundancies in the monitoring system or reporting program.
 - c) If desired, a proposal and rationale for any revisions to the groundwater sampling plan frequency and/or list of analytes.
8. The results of any monitoring done more frequently than required at the locations specified herein also shall be reported to the Central Valley Water Board. The Discharger shall implement the above monitoring program as of the date of the Order.
 9. When reporting data, the Discharger shall arrange the information in tabular form so that the date, the constituents, and the concentrations are readily discernible. The data shall be summarized in such a manner as to illustrate clearly the compliance with this Order.
 10. 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, under penalty of perjury under the laws of the State of California.

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 et seq. 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 30th 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, or they will be provided upon request.

This Order is effective upon the date of signature.

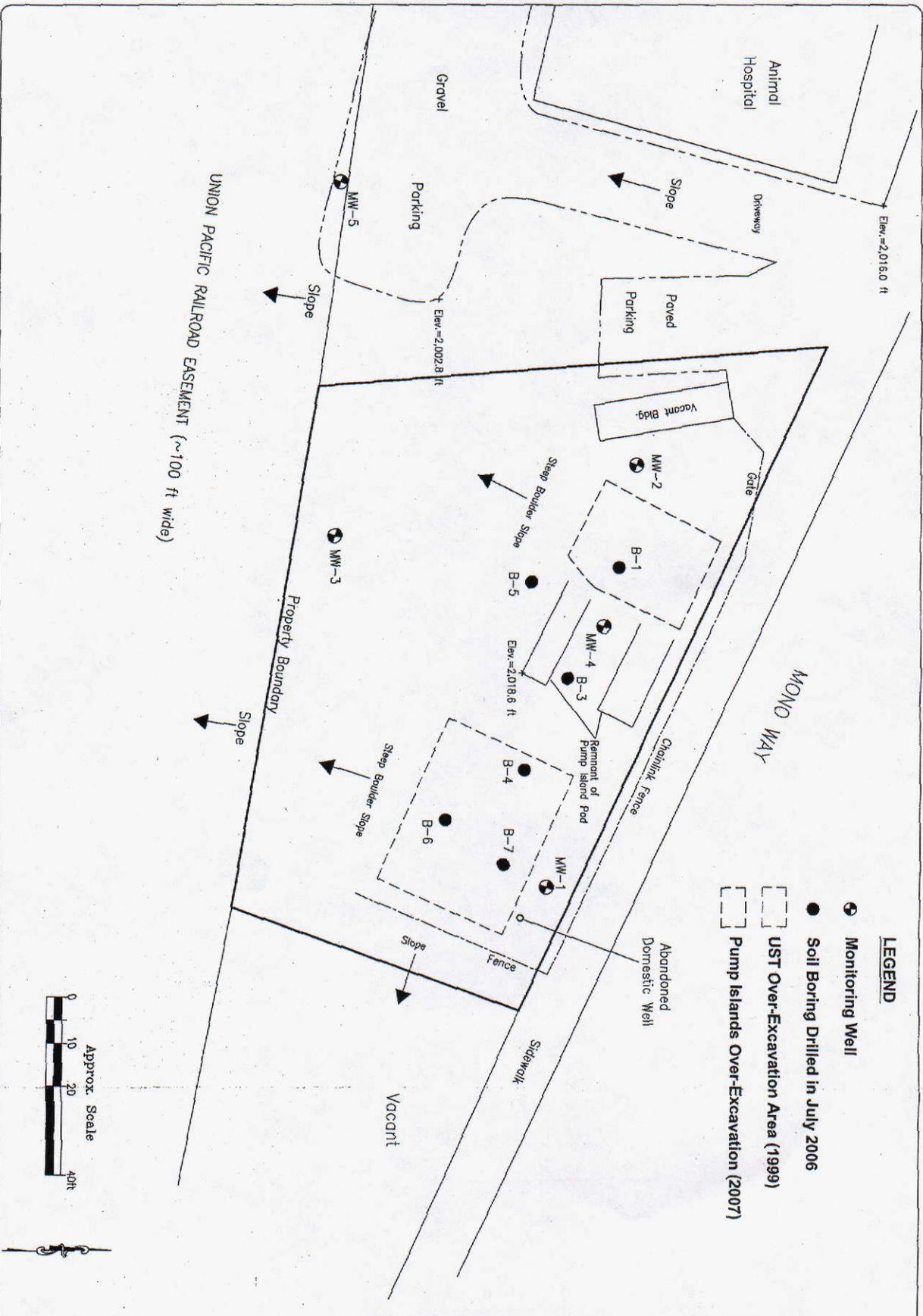
Ordered by:

Original Signed by

PAMELA C. CREEDON
Executive Officer

11 August 2009

(Date)



- LEGEND**
- Monitoring Well
 - Soil Boring Drilled in July 2006
 - UST Over-Excavation Area (1999)
 - Pump Islands Over-Excavation (2007)

Project No: 09-1019-11
 Date: 1-21-2009

FIGURE 1



SITE MAP
 FORMER TERRIBLE HERBST NO. 71
 13309 MONO WAY
 SONORA, CALIFORNIA

THE WESTMARK GROUP
 2430 N. Decatur Blvd., Ste. 140, Las Vegas, Nevada 89108
 (702) 839-2960 Tel.
 (702) 839-2962 Fax.



**California Regional Water Quality Control Board
Central Valley Region**

Karl E. Longley, ScD, P.E., Chair



**Arnold
Schwarzenegger**
Governor

11020 Sun Center Drive #200, Rancho Cordova, California 95670-6114
Phone (916) 464-3291 • FAX (916) 464-4645
<http://www.waterboards.ca.gov/centralvalley>

Linda S. Adams
Secretary for
Environmental Protection

13 August 2009

Mr. Bob Laszcik
Terrible Herbst Oil Company
5195 Las Vegas Blvd. South
Las Vegas, NV 89119

CERTIFIED MAIL
7009 0960 0000 4242 1163

ORDER NO. R5-2009-0838 TO SUBMIT TECHNICAL REPORTS IN ACCORDANCE WITH CALIFORNIA WATER CODE SECTION 13267, FORMER TERRIBLE HERBST OIL COMPANY STATION #71, 13309 MONO WAY, SONORA, TUOLUMNE COUNTY

Enclosed is a copy of Technical Reporting Order No. R5-2009-0838 issued on 24 June 2009 in accordance with California Water Code section 13267 to Former Terrible Herbst Oil Company Station #71 at 13309 Mono Way in Sonora (Site). The Order directs you to submit technical reports by 30 October 2009, including a Soil Vapor Survey Report, a Human Health Risk Assessment that evaluates all exposure pathways, and a Groundwater Monitoring Report.

In order to conserve paper, only the addressee on this letter is receiving the *Appendix A - Reports, Tri-Regional Recommendations for Preliminary Investigation and Evaluation of Underground Storage Tank Sites* (Appendix A - Reports), which is attached to and made part of the Order. A copy of Appendix A - Reports may be downloaded from the Central Valley Water Board website at

http://www.waterboards.ca.gov/centralvalley/water_issues/underground_storage_tanks/tri-regionals_appendix_a.pdf.

If you have any questions, please contact Peter Minkel at (916) 464-4629 or pminkel@waterboards.ca.gov.

Original Signed by

BRIAN NEWMAN, P.E.
Underground Storage Tank Program Manager

Enclosure: Technical Reporting Order No. R5-2009-0838

cc: Ms. Sheilah Lillie, Tuolumne County Environmental Health Department, Sonora
Mr. Kurt Buehler, USA Petroleum, Newbury Park
Mr. Mark Hallee, Westmark Environmental Services, Las Vegas, NV

California Environmental Protection Agency

