

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
COLORADO RIVER BASIN REGION**

**ORDER NO. 85-93**

**ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

**IN THE MATTER OF BRUCE A. DEMENNO, OWNER  
ROCKET GASOLINE STATION  
Lucerne Valley, San Bernardino County**

**Bruce A. DeMenno is HEREBY GIVEN NOTICE THAT:**

1. Bruce A. DeMenno, Owner of the Rocket Gasoline Station, located at 30815 Highway 18, Lucerne Valley, CA (County Assessors Parcel Number 0451051570000) has allegedly violated California Regional Water Quality Control Board, Colorado River Basin Region Cleanup Order No. 84-71 which was issued on April 9, 1984. The Regional Board may impose administrative civil liability for such violations pursuant to Sections 13323 and 13350 of the Water Code.
2. A public hearing on this matter will be held before the Regional Board at 10:00 a.m. on Wednesday, October 2, 1985, in the City Council Chambers, City of Rancho Mirage, 69825 Highway 111, Rancho Mirage, California 92270, as part of its regular Board Meeting. Bruce A. DeMenno, or his representative(s), will have an opportunity to be heard and to contest the allegations in this complaint and the imposition of civil liability by the Regional Board.
3. At the hearing the Regional Board will consider whether to affirm, reject or modify the proposed administrative liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.

**ALLEGATIONS**

4. Bruce A. DeMenno has allegedly violated Regional Board Cleanup Order No. 84-71 (Attached as Exhibit A) which was issued pursuant to Water Code Section 13304 on April 9, 1984. This would make Bruce A. DeMenno liable for administrative civil monetary remedies pursuant to Water Code Section 13350 Subsections (a) and (d)(1).
5. The following facts are the basis for the alleged violation in this matter:
  - a. Cleanup Order No. 84-71 was issued on April 9, 1984 to Bruce A. DeMenno for the investigation and cleanup of possible ground water contamination at his Lucerne Valley Rocket Gasoline Station.
  - b. The facts which led to the issuance of Cleanup Order No. 84-71 are as follows:
    - (1) In March of 1984, the Regional Board received a report via the County of San Bernardino of a leak of gasoline from underground tanks and/or piping and the possible contamination of the domestic water well at the Lucerne Valley Rocket Gasoline Station.

*Cancelled  
9/20/89*

- (2) By letter dated March 13, 1984, the Regional Board Executive Officer requested a report from the station owner on the alleged leak.
  - (3) By letter dated March 17, 1984, Bruce A. DeMenno reported that no underground leak had occurred, but that a pipe at a pump island broke in February 1982, resulting in the surface discharge of a small quantity of gasoline.
  - (4) On March 27, 1984, Regional Board staff interviewed Robert McDougall of McDougall Well Drilling Inc., Lucerne Valley, Ca which had worked on the well in question. Staff was informed that the aforementioned well had to be abandoned due to gasoline contamination.
  - (5) On March 28, 1984, Regional Board staff utilized an HNU Photoionizer Detector to detect organic vapors in the well casing. Initial meter readings were from 50 to 60 ppm benzene equivalent of organic vapor at the top of the well casing, with the concentration dropping to 20 ppm after approximately one minute. The HNU detected no organic vapors within the well casing of a nearby well.
  - (6) The 1975 Water Quality Control Plan, West Colorado River Basin and the November 1984 Water Quality Control Plan, Colorado River Basin Region, identify the beneficial uses of ground waters in the Lucerne Hydrologic Unit as:
    - a. Municipal supply
    - b. Industrial Supply
    - c. Agricultural supply
  - (7) Contamination of the ground water with gasoline would significantly impair the beneficial uses of the ground water in the subject area.
  - (8) There exists substantive evidence that ground water contamination by gasoline from the Rocket Station has occurred. Further geohydrologic work is necessary to determine the severity and areal extent of contamination, and the best procedures for cleaning it up.
- c. Cleanup Order No. 84-71 required that Bruce A. DeMenno comply with the following:
- (1) By May 1, 1984, submit to the Regional Board a plan for evaluating possible ground water contamination at the facility for review and comment by the Executive Officer. Said plan shall be certified by a California Registered Civil Engineer or Geologist.
  - (2) By July 1, 1984 submit to the Regional Board a report on the results of the ground water contamination study, including

specific recommendations on the methods and time schedule for cleanup of any contamination which may have been found. Said report shall be certified by a California Registered Civil Engineer or Geologist.

- (3) By August 1, 1984, commence any necessary cleanup activities. Progress reports on the cleanup shall be submitted quarterly to the Board. Progress reports shall be due on September 15, January 15, April 15, and July 15, commencing on September 15, 1984, and continuing until the completion of cleanup.
  - (4) Any necessary cleanup shall be completed by July 1, 1985.
  - (5) Upon completion of any cleanup activity, a written certification of completion of the cleanup signed by a California Registered Civil Engineer or Geologist shall be submitted to the Board.
- d. Pursuant to telephone conversations between Bruce A. DeMenno and Regional Board staff, the Regional Board Executive Officer postponed the compliance date for the contamination evaluation report in c.(1) above from May 1, 1984 to August 1, 1984 by letter dated June 13, 1984.
  - e. On June 6, 1984, a 10-inch diameter observation hole was drilled by McDougall Well Drilling, Inc. to a depth of 70 feet at the Rocket Gasoline Station. A steel casing was installed in the hole to a depth of 20 feet. Ground water was encountered at a depth of 40 feet. On June 7, 1984, Regional Board staff witnessed the collection of a sample from the observation hole and verified that the sample contained a significant amount of a gasoline-type petroleum product.
  - f. By letter dated August 13, 1984 the Regional Board Executive Officer informed Bruce A. DeMenno that he had violated Cleanup Order No. 84-71 by not submitting the contamination evaluation plan, as required by c.(1) and d. above, by August 1, 1984. He was again requested to submit the plan by August 17, 1984. The contamination evaluation plan was received by the Regional Board, on August 24, 1984 (23 days late). The report was submitted on behalf of Mr. DeMenno by the consulting firm of Dames & Moore, 812 Anacapa Street, Suite A, Santa Barbara, CA 93101.
  - g. The ground water contamination evaluation report required by Cleanup Order No. 84-71 (see c.2. above) was submitted to the Regional Board on November 21, 1984 by Dames & Moore (143 days late). The compliance date for this report specified in Cleanup Order No. 84-71 was July 1, 1984.

The November 21, 1984 report by Dames & Moore identified a layer of gasoline three and one half feet thick in one of the five monitoring wells at the site. The report did not adequately specify the cleanup-recovery system to be used as required by Cleanup Order No. 84-71 (see c.2. above).

- h. Regional Board staff comments on the November 21, 1984 contamination evaluation report were sent to Bruce A. DeMenno in correspondence dated January 18, 1985. The letter explained that the past delays and the cleanup schedule proposed by Dames & Moore in the report were unacceptable, and that the findings of the investigation warranted swifter action. The letter included interim cleanup level criteria and performance standards, and again requested submittal of the following to the Regional Board by January 31, 1985:

- (1) The proposed recovery/cleanup system plan.
- (2) A plan for disposal of recovered gasoline and other wastes, including an estimate of the maximum daily volume of such wastes.
- (3) A plan for disposal of any water pumped to create a cone of depression, including an estimate of the maximum daily volume of water pumped and procedures to verify that no water discharged to land contains any contaminants.
- (4) Date by which the recovery/cleanup system will be in operation.

To comply with the above request, Dames and Moore submitted a report on behalf of Bruce DeMenno on April 19, 1985. The report was inadequate since it did not include a specific cleanup system plan. Comments on this report were sent to Bruce A. DeMenno on May 20, 1985. In the May 20 comment letter, the Executive Officer again expressed concern regarding Mr. DeMenno's ability to comply with the July 1, 1985 deadline for completion of cleanup activities. Mr. DeMenno was requested to implement the gasoline recovery plan immediately.

As of the date of this Order No. 85-93, a specific cleanup plan has not been received by the Regional Board, nor implemented by Mr. DeMenno.

- i. Cleanup Order No. 84-71 required that cleanup activities commence by August 1, 1984 and that progress reports be submitted on September 15, January 15, April 15, and July 15, commencing on September 15, 1984 (See c.3. above). As of the date of this complaint, cleanup activities have not commenced.
- j. Cleanup Order 84-71 required that any necessary cleanup shall be completed by July 1, 1985 (see c.4. above); and upon completion of the cleanup activities submit a written certification of completion of cleanup signed by a California Registered Civil Engineer or Geologist (see c.(5) above). Bruce A. DeMenno has failed to meet this compliance date.

## PROPOSED CIVIL LIABILITY

6. Pursuant to Water Code Section 13350 the maximum administrative civil liability which the Regional Board can impose for violation of a Cleanup Order is \$5,000.00 per day of violaton. If the Regional Board elects to refer this matter to the Attorney General, the maximum civil liability is \$15,000.00 per day of violation.
7. Based on the allegation that Bruce A. DeMenno has been in violation of Cleanup Order No. 84-71 since the first compliance date, May 1, 1984 through August 27, 1985, the net administrative civil liability could amount to \$2,410,000.00
8. For failure to comply with Cleanup order No. 84-71 during the period from May 1, 1984 to August 27, 1985), the Regional Board Executive Officer proposes that administrative civil liability be imposed by the Regional Board in the amount of \$12,000.00.
9. This amount reflects consideration of the nature, circumstance, extent, and gravity of the alleged violation(s), the degree of culpability, and prior history of violations, economic savings, if any, resulting from the violation, Mr. DeMenno's ability to pay and continue in business, the potential for successful cleanup or abatement, any voluntary cleanup efforts undertaken and such other matters as justice may require as summarized below:
  - (a) Bruce A. DeMenno has not complied with Cleanup Order No. 84-71.
  - (b) The existence of gasoline contaminated ground water was confirmed at Mr. DeMenno's Rocket Gasoline Station on June 6, 1984 and 14 months later cleanup operations have still not commenced.
  - (c) Gasoline contamination of the ground water by a gasoline leak at Mr. DeMenno's Rocket Gasoline Station has caused the abandonment of one domestic well and has the potential to contaminate other wells and impair beneficial uses of the groundwater.
  - (d) However, Bruce A. DeMenno has demonstrated a degree of cooperation in that he has hired a consultant who conducted an investigation of the contamination.
10. Further failure to comply with the Cleanup Order No. 84-71 or any revisions or amendments thereof may subject Bruce A. DeMenno to further administrative civil liability; and/or other appropriate action.



WAIVER OF HEARING

11. NOTICE TO BRUCE A. DEMENNO: You may waive the right to a hearing. If you wish to waive the hearing, please check and sign the attached waiver and return it, together with a cashier's check or money order payable to "State Water Resources Control Board" in the amount of the civil liability proposed in paragraph 8 above, to the California Regional Water Quality Control Board, Colorado River Basin Region, 73-271 Highway 111, Suite 21, Palm Desert, CA 92260. If you have any questions, please contact the Executive Officer at (619) 346-7491.

August 28, 1985  
Date

Arthur Swajian  
ARTHUR SWAJIAN  
Executive Officer

## WAIVER

- ( ) By checking the box I agree to waive my right to a hearing before the Regional Board with regard to the violations alleged in Order No. 85-93, Administrative Civil Liability Complaint, and to remit payment for the civil liability imposed. I understand that I am giving up my right to argue against the allegations made by the Executive Officer in this complaint, and against the imposition of, or the amount of, the civil liability proposed.

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Discharger