

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

INVESTIGATIVE ORDER NO. R9-2018-0156

**AN ORDER DIRECTING CHEVRONTEXACO AND RONALD V. KIEFFE TO SUBMIT
TECHNICAL REPORTS FOR THE CRM AUTOMOTIVE REPAIR SITE, 821 RANCHO
SANTA FE ROAD, SAN MARCOS, CALIFORNIA**

The California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) finds:

1. **Legal and Regulatory Authority.** This Order conforms to and implements policies and requirements of the Porter-Cologne Water Quality Control Act (division 7 of the Water Code, commencing with section 13000) including (1) sections 13267 and 13304; (2) applicable State and federal regulations; (3) all applicable provisions of statewide Water Quality Control Plans adopted by the State Water Resources Control Board (State Water Board) and the *Water Quality Control Plan for the San Diego Basin* (Basin Plan) adopted by the San Diego Water Board, including beneficial uses, water quality objectives, and implementation plans; (4) State Water Board policies and regulations, including Resolution No. 68-16, *Statement of Policy with Respect to Maintaining High Quality of Waters in California*, Resolution No. 92-49, *Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under Water Code Section 13304*, the *Water Quality Control Plan for Enclosed Bays and Estuaries – Part 1 Sediment Quality* (Bays and Estuaries Plan),¹ and California Code of Regulations title 23,² chapter 16, article 11, and title 23, section 3890 et seq.; and (5) relevant standards, criteria, and advisories adopted by other State and federal agencies.
2. **CRM Automotive Repair Location.** CRM Automotive Repair is located at 821 Rancho Santa Fe Road, San Marcos, CA 92069 (Site).³
3. **Beneficial Uses of Groundwater.** The Site overlies groundwater within the Carlsbad Hydrologic Unit of the San Marcos Hydrologic Area (HA 904.50) of the Richland Hydrologic Sub Area (HSA 904.52). The Basin Plan designates beneficial uses for waters of the State and establishes water quality objectives to protect these uses. Present and potential future beneficial uses of groundwater in the San Marcos HA include municipal and domestic supply (MUN), agricultural supply (AGR), and industrial service supply (IND). Water quality objectives needed to support the MUN use are more stringent than those needed for AGR and IND uses. The water quality objectives for MUN in the HSA 904.52 basin are the Maximum Contaminant Levels (MCLs) specified in Table 64444-A in Section 64444 of title 22 of the California Code of Regulations.

¹ http://www.waterboards.ca.gov/water_issues/programs/bptcp/docs/sediment/sed_qlty_part1.pdf

² In this Order, the term “title 23” refers to the California Code of Regulations from this point forward.

³ Assessor’s Parcel Number 221-550-37-00.

4. **Basis for Requiring Technical and Monitoring Reports.** Water Code section 13267 provides that the San Diego Water Board may require dischargers, past dischargers, or suspected dischargers to furnish those technical or monitoring program reports as the San Diego Water Board may specify, provided that the burden, including costs, of these reports bears a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
5. **Unauthorized Discharge of Waste.** Texaco Refining and Marketing Inc. (Texaco) operated a gasoline service station at the Site from February 28, 1964 through January 15, 1985. Texaco sold gasoline and provided automotive repair services. Based on customary practice and tank removal observations, it is the San Diego Water Board's position that multiple underground storage tanks (USTs) were located at the Site during Texaco's ownership and/or operation.

The property was subsequently acquired by the current property owner Mr. Ronald V. Kieffe (property owner). The property owner discovered a waste oil tank at the Site and removed it under a permit issued by the County of San Diego on April 15, 1992. The County inspector observed free phase petroleum product in the excavation during the waste oil tank removal.⁴

A Preliminary Subsurface Investigation in October 1993 removed contaminated soil from the waste oil excavation.⁵ Approximately 114 cubic yards of contaminated soil was stockpiled behind the Site's automotive repair building. Total recoverable petroleum hydrocarbons (TRPH) were detected in the initial soil samples taken from the bottom of the excavation at 8 feet below ground surface (ft. bgs). Subsequent soil samples taken at the 9, 10 and 12 ft. bgs also detected TRPH. Analysis of soil samples taken at 13.5 feet and 15.5 ft. bgs reported elevated levels of petroleum hydrocarbon compounds (TPH), benzene, toluene, ethylbenzene and xylenes which indicates a release from USTs that stored gasoline (Table 1).

Table 1. Selected Soil Sampling Results

Compound	Maximum Soil Concentration (mg/kg)
TRPH	25,384
TPH	1,355
Benzene	1,120
Toluene	7,502
Ethylbenzene	2,673
Xylenes	27,080

TRPH – total recoverable petroleum hydrocarbons

TPH – total petroleum hydrocarbons

mg/kg - milligram per kilogram

⁴ County of San Diego, Underground Storage Tank Removal/Closure Report, April 30, 1992.

http://geotracker.waterboards.ca.gov/view_documents?global_id=T0607300982&document_id=5785823

⁵ Tetra Tech Inc., *Preliminary Subsurface Investigation*, CRM Automotive, 821 Rancho Santa Fe Road, San Marcos California, May 5, 1993.

http://geotracker.waterboards.ca.gov/view_documents?global_id=T0607300982&document_id=5785823

Texaco's USTs, which remained on Site after the 1992 waste oil tank removal, are located adjacent to the waste oil tank. No documentation has been provided to show that Texaco's USTs have been removed from the Site. A Site inspection on August 24, 2018, found evidence that Texaco's USTs may still be present.⁶ Additionally, the soil stockpiled from the waste oil tank excavation and Preliminary Investigation is still present onsite.

Discharges of gasoline from the waste oil tank, and Texaco's underground storage tanks, have polluted soil beneath the Site and constitutes a discharge of waste, as defined in Water Code section 13050, subdivision (d).

6. **Persons Responsible for the Discharge of Waste.** Texaco is responsible for the discharge of waste because it operated the retail gasoline station known as the Texaco Service Station where discharges of gasoline occurred from the waste oil tank and from the UST system.⁷ The activities Texaco permitted to occur caused waste to be discharged to soil where it threatened a discharge into waters of the State and created or threatened to create a condition of pollution or nuisance. By failing to control the discharge, Texaco has caused or permitted waste to be discharged in such a manner that it has created a condition of pollution or nuisance. The term "discharge" includes the initial release and active and passive migration of waste.

It is the San Diego Water Board's understanding that on October 9, 2001, Chevron and Texaco merged to form ChevronTexaco. Based on a review of our records, Chevron is responsible for the Site. Due to this merger, Chevron is responsible for Texaco's liabilities and is therefore a responsible party for the discharge of waste. However, the San Diego Water Board reserves the right to modify this Order and name additional parties, if necessary.⁸

Mr. Ronald V. Kieffe is the current property owner. Mr. Kieffe purchased the property from Texaco on December 30, 1986 and operated Happy Automotive Sales from 1985 to 1992. Mr. Kieffe currently leases the property to CRM Automotive Repair. The records show that Mr. Kieffe had knowledge of the Texaco activities that resulted in the discharge of waste from the Site and has legal ability to control or abate discharges of waste.⁹ Mr. Kieffe has discharged and is discharging waste and is responsible under this Order.

7. **Threat to Water Quality.** The petroleum constituents detected in soil indicate an unauthorized release from the waste oil tank and UST system. The increasing soil concentrations with depth indicate a potential threat to water quality. As shown in Table 1 above, analytical results have confirmed the presence of petroleum in soil

⁶ San Diego Water Board, Site Inspection, August 24, 2018:
http://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T0607300982.

⁷ The UST system included the tanks, piping, and dispensers.

⁸ For example, Chevron may have evidence that the Site, a Texaco Refining and Marketing, Inc. asset, was transferred to Shell or Equilon.

⁹ Property Detail Report, Assignment of Lease between Texaco and Mr. Kieffe, 821 Rancho Santa Fe Road, San Marcos, March 19, 1985.

at concentrations that may leach into groundwater impacting the MUN beneficial use.

8. **Human Health Impairment.** Residential housing is located adjacent to the Site. Petroleum constituents (e.g. benzene, ethylbenzene, naphthalene) can pose a human health risk through various exposure routes (e.g., incidental ingestion or dermal contact with impacted soil and groundwater, and inhalation of vapors from the subsurface to indoor air). These chemicals have long-term cancer risks as well as short-term non-cancer hazards.
9. **Need for and Benefit of Technical and Monitoring Reports.** Further investigations and monitoring are needed to determine the vertical and horizontal extent of the discharge of petroleum in soil and groundwater and to evaluate whether the discharge of wastes causes an unacceptable risk to human health. Technical reports and monitoring reports are needed to provide information to the San Diego Water Board regarding (a) the nature and extent of the discharge; (b) the nature and extent of nuisance conditions in State waters created by the discharge; (c) the potential for vapor risk to human health as a result of the discharge; and (d) appropriate cleanup and abatement measures, capable of meeting cleanup levels consistent with State Water Board Resolution No. 92-49, *Policies and Procedures for Investigation and Cleanup and Abatement of Discharges Under California Water Code Section 13304*.

The reports will enable the San Diego Water Board to understand the vertical and lateral extents of the discharge and provide technical information to determine what cleanup and abatement measures may be necessary to bring the Site into compliance and to be protective of human health. Based on the nature and possible consequences of the discharge (as described in the Findings above), the burden of providing the required reports, including the costs, bears a reasonable relationship to the need for the reports, and to the benefits to be obtained from the reports.

10. **California Environmental Quality Act Compliance.** The issuance of this Order is an enforcement action taken by a regulatory agency and is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to section 15306, chapter 3, title 14 of the California Code of Regulations, as the Order requires data collection and does not result in a major disturbance to an environmental resource. This action is also exempt from the provisions of CEQA pursuant to section 15061(b)(3), chapter 3, title 14 because it can be seen with certainty that there is no possibility the activities undertaken to comply with this Order will have a significant effect on the environment.
11. **Qualified Professionals.** The Dischargers' reliance on qualified professionals promotes proper planning, implementation, and long-term cost-effectiveness of investigations. Professionals must be qualified, licensed where applicable, and competent and proficient in the fields pertinent to the required activities. California Business and Professions Code sections 6735, 7835, and 7835.1 require that engineering and geologic evaluations and judgments be performed by or under direction of licensed professionals.

IT IS HEREBY ORDERED, pursuant to Water Code section 13267, that the Dischargers identified in Finding No. 6 must comply with the following directives:

A. **Site Investigation Work Plan.** The Dischargers must submit a Site Investigation Work Plan (Work Plan) to collect data needed to satisfy the General Criteria and Media-Specific Criteria in the State Water Resources Control Board's Low-Threat Underground Storage Tank Case Closure Policy (LTC Policy).¹⁰ The Work Plan must be received by the San Diego Water Board **no later than 5:00 p.m. on January 25, 2019.**

1. **General Criteria.** The Work Plan must satisfy the following LTC Policy General Criteria:
 - a) The unauthorized release is located within the service area of a public water system;
 - b) The unauthorized release consists only of petroleum;
 - c) The unauthorized ("primary") release from the UST system has been stopped;
 - d) Free product has been removed to the maximum extent practicable;
 - e) The Work Plan must include a preliminary conceptual site model (CSM) that provides a conceptual understanding of the potential for exposure to site contaminants based on sources of contamination, release mechanisms, transport media, exposure pathways, and potential receptors;
 - f) Secondary source has been removed to the extent practicable;
 - g) Soil or groundwater has been tested for methyl tert-butyl ether (MTBE) and results reported in accordance with Health and Safety Code section 25296.15; and
 - h) Nuisance as defined by Water Code section 13050 does not exist at the site.
2. **Media-Specific Criteria.** The Work Plan must describe the collection of data needed to satisfy the LTC Policy Media-Specific Criteria listed below:
 - a) Groundwater-Specific Criteria;
 - b) Petroleum Vapor Intrusion to Indoor Air; and
 - c) Direct Contact and Outdoor Air Exposure.
3. **Sampling and Analyses.** The Work Plan must describe the proposed sampling methodologies, chemical analytical methods, sampling locations (including rationale), and quality assurance/quality control (QA/QC) procedures. All samples shall be tested for analytes needed to characterize pollutants in soil,

¹⁰ California State Water Resources Control Board, *Low-Threat Underground Storage Tank Case Closure Policy*, November 6, 2012.

https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2012/rs2012_0016atta.pdf

soil vapor, and groundwater. Contingencies for collection of additional samples shall be proposed in the Work Plan if necessary to fully address the criteria in the LTC Policy.

4. **UST Subsurface Investigation.** The Work Plan must include an investigation to determine if the former Texaco USTs and associated piping have been removed from the Site.
 5. **Waste Characterization.** The Work Plan must include methods to characterize all Site sources of waste discharged to soil, groundwater, soil vapor, and the soil stockpiled behind the Site's automotive repair building. All stockpiled soil associated with the unauthorized release must be sampled and analyzed in accordance with the County of San Diego Site Assessment Mitigation Manual.¹¹ All stockpiled soil must be sent to the appropriate facility or reused onsite in accordance with San Diego Water Board Resolution No. R9-2014-0041, Waiver No.10, Discharges/Disposal of Solid Wastes to Land.
 6. **Site Map.** The Work Plan must include a detailed site map(s) to scale that shows former tank(s) and piping locations, underground utilities, buildings, adjacent properties and land use designations, and all proposed sampling locations.
 7. **Work Plan Completion Schedule.** The Work Plan must include a schedule for the completion of all field activities and for the submission of the final Site Investigation Report.
- B. **Implementation of Site Investigation Work Plan.** The Dischargers must implement the Work Plan in compliance with the San Diego Water Board approved schedule provided in the final Work Plan, unless otherwise directed in writing by the Board. If unforeseen circumstances arise that cause delays, the Dischargers may request modifications to the final Work Plan schedule. Any proposed changes to the schedule must be approved by the Branch Chief.
- C. **Site Investigation Report.** The Dischargers must prepare a Site Investigation Report (Report) that describes the results from implementing the final Work Plan and presents the analytical results, a comparison of the Site data to LTC Policy Criteria, and provides conclusions and recommendations. The Report must be received by the San Diego Water Board **no later than 90 days after the Dischargers receive all analytical laboratory reports.** The Report must include, but is not limited to, the following:
1. **Previous Environmental Investigations and Historical Data.** A summary of previously conducted environmental investigations, UST removal(s), data tables, and figures.

¹¹ County of San Diego, SAM Manual, Section 5, XI. Waste Characterization and Soil Reuse,

2. **Media-Specific Criteria.** A characterization of all Site sources of waste discharged to soil, groundwater, soil vapor, and soil stockpiled onsite. The Report must also evaluate the Site Investigation data compared to the Media-Specific Criteria in accordance with the LTC Policy.
 3. **Field Methodologies.** A description of the field methodologies used for soil sampling, soil vapor sampling, groundwater sampling, and any other field sampling-related activities, including drilling and soil logging.
 4. **Laboratory Analyses.** A presentation of results of all analyses performed including laboratory analytical methods and QA/QC sample results. The suite of chemical analyses, methods, and protocols must be adequate to quantitatively identify and characterize the full range of site-specific waste constituents. All sampling data shall be presented in tabular format that includes the sample location, result, depth, and sampling date.
 5. **Sample Information.** A description of the sample locations, the number of samples collected, and a map showing sample locations.
 6. **Updated Conceptual Site Model.** An updated CSM that provides a conceptual understanding of the potential for exposure to Site contaminants based on sources of contamination, release mechanisms, transport media, exposure pathways, and potential receptors. The CSM must characterize subsurface geology, hydrogeology, and all preferential pathways that may affect groundwater, soil vapor flow, and contaminant migration. The CSM shall also identify data gaps and include a discussion of the level of uncertainty for the conclusions.
 7. **Conclusions and Recommendations.** The Report must include conclusions based on the results of the soil, soil vapor, and groundwater sampling. The Report shall also include recommendations, as needed, for additional site investigation, remedial measures, or closure based on the Low Threat Policy Criteria.
- D. **Compliance Dates.** The compliance dates for the requirements of this Order are summarized in the table below.

Requirement	Compliance Due Date
Directive A - Submittal of the Site Investigation Work Plan	January 25, 2019
Directive B - Implementation of the Site Investigation Work Plan	30 days after approval of the Work Plan
Directive C – Submittal of the Site Investigation Report	90 days after receipt of all analytical laboratory reports

- E. **Penalty of Perjury Statement.** All reports must be signed by the Dischargers' corporate officers or duly authorized representatives, and must include the following

statement by the official, under penalty of perjury, that the report is true and correct to the best of the official's knowledge:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

F. **Document Submittals.** The Electronic Reporting Regulations require electronic submission of any report or data required by a regulatory agency from a cleanup site after July 1, 2005.¹² The electronic document submittals must be uploaded on or prior to the regulatory compliance due dates set forth in this Order or subsequent addenda. To comply with these requirements, the Dischargers must upload documents and information to the GeoTracker database. The Dischargers must submit the required documents as follows:

1. **GeoTracker.** All information submitted to the San Diego Water Board in compliance with this Order must be submitted electronically to the GeoTracker database (<http://geotracker.waterboards.ca.gov/esi>) under GeoTracker Global ID **T0607300982**. The Dischargers must upload the following minimum information to the GeoTracker database:

- a) **Reports.** A complete copy of all work plans, assessment, monitoring, and cleanup reports, including the signed transmittal letters, professional certifications, and all data presented in the reports. All reports must be submitted in PDF format and must be text searchable. Reports larger than 400 megabytes (MB) must be divided into separate files at logical places in the report to keep each file size smaller than 400 MB.
- b) **Site Maps.** A site map, including notes, legends, north arrow, and other data as appropriate to ensure that the site map is clear and understandable. All site maps must be in GIF, JPG, TIF, or PDF formats. When appropriate, the Dischargers should provide required information on multiple site maps.
- c) **Laboratory Analytical Data.** Analytical data (including geochemical data) for all soil, groundwater, soil vapor, and indoor air samples in Electronic Data File (EDF) format.
- d) **Locational data.** The latitude and longitude of all permanent sampling locations in EDF format.

¹² California Code of Regulations title 23, chapter 30, division 3 and title 27, division 3.

2. **Other Submittals.** The San Diego Water Board may also request information or documents in hard copy and/or electronic copies on CD or other appropriate media, including electronic mail (email).
 - a) **Hard Copies and CDs.** If requested by the San Diego Water Board, the Dischargers must also provide the following to the Board: a hard copy of the complete document, a hard copy of the cover/transmittal letter, a hard copy of oversized drawings or maps, and an electronic copy (on a CD or other appropriate media) of the complete document.
 - b) **Electronic Mail.** If requested by the San Diego Water Board, the Dischargers must also submit a copy (in a text-searchable PDF file) of all documents including signed transmittal letters, professional certifications, and all data presented in the documents to sandiego@waterboards.ca.gov.
 3. **Compliance Determination for Document Submittals.** Upon receipt of the required documents, the San Diego Water Board will use the email date and time, upload date and time, and/or receipt date and time to determine compliance with the due dates specified in this Order.
- G. **Violation Reports.** If the Dischargers violate any requirement of this Order, they must notify the San Diego Water Board by telephone as soon as practicable. The San Diego Water Board may, depending on violation severity, require the Dischargers to submit a separate technical report on the violation within five working days of the telephone notification.
- H. **Other Reports.** The Dischargers must notify the San Diego Water Board in writing prior to any activities at the Site that have the potential to cause further migration of pollutants.
- I. **Provisions**
1. **Waste Management.** The Dischargers must properly manage, store, treat, and dispose of contaminated media in accordance with applicable federal, State, and local laws and regulations. The storage, handling, treatment, or disposal of media associated with the assessment required by this Order must not create conditions of nuisance as defined in Water Code section 13050(m).
 2. **Contractor/Consultant Qualifications.** All reports, plans, and documents required under this Order must be prepared under the direction of appropriately qualified professionals. A statement of qualifications and license numbers, if applicable, of the responsible lead professional and all professionals making significant and/or substantive contributions must be included in the report submitted by the Dischargers. The lead professional performing the engineering and geologic evaluations and judgments must sign and affix their professional geologist or civil engineer registration stamp to all plans, technical reports, or documents submitted to the San Diego Water Board.

3. **Laboratory Qualifications.** All samples must be analyzed by Environmental Laboratory Accreditation Program-certified laboratories using methods approved by the United States Environmental Protection Agency (USEPA) for the type of analysis to be performed.
4. **Laboratory Analytical Reports.** Any report presenting new analytical data is required to include the complete laboratory analytical report(s). The laboratory analytical report(s) must be signed by the laboratory director and contain:
 - a) Complete sample analytical reports;
 - b) Complete laboratory QA/QC reports;
 - c) A discussion of the sample and QA/QC data; and
 - d) A transmittal letter that indicates whether or not the analytical work was supervised by the director of the laboratory, and contains the following statement:

“All analyses were conducted at a laboratory certified for such analyses by the California Department of Public Health in accordance with USEPA procedures.”
5. **Analytical Methods.** Analytical methods used must be identified in all technical and monitoring reports. If the Dischargers propose to use methods or test procedures other than those included in the most current version of USEPA’s “Test Methods for Evaluating Solid Waste: Physical/Chemical Methods, SW-486” or Code of Federal Regulations (CFR), title 40, part 136 “Guidelines Establishing Test Procedures for the Analysis of Pollutants,” the methodology must be reviewed and approved by the San Diego Water Board prior to use.
6. **Change of Owner or Operator Reporting.** The Dischargers must notify the San Diego Water Board of any changes in occupancy or ownership associated with the Site.

J. **Notifications**

1. **Applicable Permits and Permissions.** The Dischargers must obtain all permits and access agreements needed to implement the requirements of this Order. This Order does not relieve the Dischargers of the responsibility to obtain permits or other entitlements to perform necessary assessment activities. This includes, but is not limited to, actions that are subject to local, State, and/or federal discretionary review and permitting.
2. **Enforcement Notification.** Failure to comply with requirements of this Order may subject the Dischargers to enforcement action, including but not limited to administrative enforcement orders requiring the Dischargers to cease and desist

from violations, imposition of administrative civil liability, pursuant to Water Code section 13268 in an amount not to exceed \$1,000 for each day in which the violation occurs, referral to the State Attorney General for injunctive relief, and referral to the District Attorney for criminal prosecution. The Dischargers are jointly and severally liable for complying with the Order, and the entire amount of the administrative civil liability, if any. The San Diego Water Board reserves the right to seek administrative civil liability from any or all of the Dischargers.

3. **Enforcement Discretion.** The San Diego Water Board reserves its right to take any enforcement action authorized by law for violations of the terms and conditions of this Order and of the California Water Code.

4. **Requesting Administrative Review by the State Water Board.** Any person affected by this action of the San Diego Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and title 23, section 2050. The petition must be received by the State Water Board (Office of Chief Counsel, P.O. Box 100, Sacramento, California 95812) within **30 calendar days** of the date of this Order. Copies of the laws and regulations applicable to filing petitions will be provided upon request.

Ordered by:



Kelly Dorsey
Branch Chief

10/16/2018

Date