

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

ORDER No. R2-2015-0014

**AMENDMENT OF SITE CLEANUP REQUIREMENTS (ORDER No. R2-2002-0123) for:
KTR BAY EAST VIII LLC, and
NESTLE USA – BEVERAGE DIVISION, INC.**

For the property located at:

1964 WILLIAMS STREET
SAN LEANDRO, ALAMEDA COUNTY

The California Regional Water Quality Control Board, San Francisco Bay Region (hereinafter the Regional Water Board), finds that:

1. **Regional Water Board Orders:** The Regional Water Board first adopted site cleanup requirements for this site on August 23, 1995 (Order No. 95-178). Order No. 95-178 was rescinded and replaced on June 21, 2000 (Order No. 00-052). Order No. 00-052 was rescinded and replaced on November 20, 2002 (Order R2-2002-0123)(the “SCR”). The SCR names Nestle USA – Beverage Division, Inc., and W.S. Associates (the former property owner) as dischargers. The SCR sets cleanup standards, requires implementation of an approved cleanup plan, requires compliance with a Self-Monitoring Program, required the recordation of a deed restriction (recorded in the Official Records of Alameda County California as Instrument No. 2004076841), and requires the submission of a technical report on any changes in site ownership.
2. **Reason for Amendment:** The SCR should be amended to reflect a change in ownership of the site. On March 13, 2015, KTR BAY EAST VIII LLC (“KTR”) acquired the legal parcel encompassing the site from W.S. Associates.

KTR replaces W.S. Associates as a named discharger, based on KTR’s status as current property owner. W.S. Associates owned the property after the activities that resulted in the initial contaminant release. Nestle USA – Beverage Division, Inc., a named discharger under the SCR, will continue to be a named discharger responsible with KTR for compliance with the SCR, including investigation and cleanup activities.
3. **California Safe Drinking Water Policy:** It is the policy of the State of California that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. This order promotes that policy by requiring discharges to meet maximum contaminant levels designed to protect human health and ensure that water is safe for domestic use.
4. **CEQA:** This action amends an order to enforce the laws and regulations administered by the Regional Water Board. There is no possibility that this action will have a significant effect on the environment. (Cal. Code Regs., tit. 14 §§ 15378 and 15061, subd. (b) (3).)

5. **Notification:** The Regional Water Board has notified the dischargers and all interested agencies and persons of its intent under Water Code section 13304 to amend site cleanup requirements for the dischargers and has provided them with an opportunity to submit their written comments.

IT IS HEREBY ORDERED, pursuant to sections 13304 and 13267 of the Water Code, that Order No. R2-2002-0123 shall be amended as follows:

1. KTR is added to the order as a named discharger in place of W.S. Associates. Finding 3 is revised to read:

Named Dischargers: KTR is named as a discharger because it is the current owner of the property on which there is an ongoing discharge of pollutants, it has knowledge of the discharge or the activities that caused the discharge, and it has the legal ability to control the discharge.

Nestle, a former tenant of the site, is named as a discharger because it used chemicals in its freeze drying operations that are associated with those found in the soil and groundwater.

W.S. Associates, the former owner, is not named as a discharger in this order for the following reasons: W.S. Associates has complied with this order during its ownership of the Site, KTR has adequate financial resources to comply with the remaining tasks of the order, and KTR has agreed that W.S. Associates not be named in this order because KTR will complete the remaining tasks of the order. However, W.S. Associates may be named in future if these circumstances change.

D. H. Overmyer Co., Inc., who owned or leased the Site from 1966 to 1974; The Austin Company, who operated a freeze drying facility at the Site in 1968; D. Devine, who owned the property from 1969 to until 1984; and Cryo-Maid, Inc., who operated a freeze drying facility at the Site from 1972 to 1982, have not been named as dischargers. The Regional Water Board reserves the right to name these entities as dischargers in the future if necessary to facilitate cleanup of identified environmental impacts.

If additional information is submitted indicating that other parties caused or permitted any waste to be discharged on the site where it entered or could have entered waters of the State, the Regional Water Board will consider adding those parties' names to this order.

I, Bruce H. Wolfe, Executive Officer, do hereby certify that this order is a full, true, and correct order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on March 20, 2015.

Bruce H. Wolfe
Executive Officer

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FAILURE TO COMPLY WITH THE REQUIREMENTS OF THIS ORDER MAY SUBJECT YOU TO ENFORCEMENT ACTION, INCLUDING BUT NOT LIMITED TO: IMPOSITION OF ADMINISTRATIVE CIVIL LIABILITY UNDER WATER CODE SECTIONS 13268 OR 13350, OR REFERRAL TO THE ATTORNEY GENERAL FOR INJUNCTIVE RELIEF OR CIVIL OR CRIMINAL LIABILITY
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