
San Francisco Bay Regional Water Quality Control Board

Date: May 28, 2015
File No. 01S0762

Mr. Stuart Depper
1380 East Avenue, Suite 128
Chico, CA 95979

Sent via email: CleanTech@yahoo.com

Mr. Eric Depper
1380 East Avenue, Suite 128
Chico, CA 95979

Sent via U.S. post

SUBJECT: Transmittal of Tentative Order – Site Cleanup Requirements for Former Glovatorium property located at 3820 Manila Avenue, Oakland, Alameda County

Dear Stuart and Eric Depper:

Attached is a Tentative Order (Site Cleanup Requirements) for the subject Site. The Tentative Order requires completion of the remedial investigation and preparation of a remedial action plan. The attached materials will also be posted on the following Regional Water Board webpage: http://www.waterboards.ca.gov/sanfranciscobay/public_notices/#sitecleanup

Any written comments by you or interested persons must be submitted by you to the Regional Water Board offices by June 30, 2015. Written comments submitted after this date will not be considered by the Regional Water Board. Following the comment period, Regional Water Board staff will consider comments received and determine whether the Order should be issued administratively by the Executive Officer or adopted by the Regional Water Board following a public hearing.

Pursuant to section 2050(c) of Title 23 of the California Code of Regulations, any party that challenges the Regional Water Board's action on this matter through a petition to the State Water Board under Water Code section 13320 will be limited to raising only those substantive issues or objections that were raised during the comment period ending on June 30, 2015, or at any Regional Water Board public hearing on this matter.

If you have any questions regarding this letter, please contact Martin Musonge of my staff at (510) 622-2396 [e-mail Martin.Musonge@waterboards.ca.gov].

Sincerely,

Bruce H. Wolfe
Executive Officer

Attachment: Tentative Order
cc w/attach:

Sent via email

Mr. Edward E. Firestone, Attorney
775 Gunda Street
Palo Alto, CA 94301
Email: efirestone@aol.com

Wack & Wick, LLP
Attn: Mr. Peter Ton, Esq.
Email: pton@ww-envlaw.com

Roux Associates, Inc.
Attn: Mr. Kenneth Kievit
Kkievit@rouxinc.com

Environmental and Hydrogeological Consulting
Attn: Mr. Franklin Goldman
Email: FJGoldmanchg@yahoo.com

City of Oakland
Attn: Mr. Miguel Trujillo
Email: MTrujillo@Oaklandnet.com

Alameda County Environmental Health Services
Attn.: Ms. Dilan Roe
Email: Dilan.Roe@acgov.org

SWRCB UST Cleanup Fund
Email: WB-DFA-USTCleanupFund@waterboards.ca.gov

Environmental Guidance
Attn: Mr. Tim Becker
Email: TBecker@envguidance.com

Archer Morris
Attn: Peter McGaw
Email: pmcgaw@archermorris.com

Sent via U.S. post

Estate of Earl Thompson Sr.
Attn: Mr. Earl Thompson, Jr.
75 Court Street, Quincy, CA 95971

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

TENTATIVE ORDER

ADOPTION OF INITIAL SITE CLEANUP REQUIREMENTS for:

STUART DEPPEER, ERIC DEPPEER, AND GLOVATORIUM, INC.

For the property located at:

3820 MANILA AVENUE, OAKLAND, ALAMEDA COUNTY

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

- 1. Site Location:** The approximately 0.45-acre property (Assessor's Parcel No. 12-982-016) is a rectangular-shaped, commercial parcel (Site). The Site (Figure 1) is located at 3820 Manila Avenue in Oakland, between Manila Avenue and Broadway Street, near the intersection of 38th Street. Surrounding properties are primarily commercial and residential.
- 2. Site History:** In 1961, the Site was occupied by Sanitary Golden West Inc. In 1971, a corporation named Glovatorium, Inc. occupied the Site. The nature of the operations conducted at the Site between 1961 and 1982 has not been determined to date. Starting in 1982, the Site was owned and operated by Robert Depper as a wholesale dry cleaning plant named Glovatorium, Inc.

Beginning in 1982, Stuart Depper assisted his father, Robert Depper, in conducting the dry cleaning operation at the Site. In 1996, Robert Depper organized the "Robert Depper Trust" (Trust). The Trust had no ownership interest in the Site or business. It was organized for the purpose of transferring ownership of the Site and operation of the dry cleaning business to Robert Depper's two sons, Stuart and Eric Depper. Stuart and Eric Depper were named beneficiaries of the Trust. In 2001, when Robert Depper passed away, Stuart and Eric Depper became owners of the Site and owners and operators of the dry cleaning business named Glovatorium, Inc.

In 2011, Martha Depper was recorded as successor trustee of the Trust. That same year, the shares of the Trust were divided among Stuart Depper (49%), Eric Depper (49%), and Martha Depper as trustee (2%). Stuart and Eric Depper continue to own and operate the small-scale dry cleaning business at the Site.

It is currently unknown when releases first occurred at the Site, however, a release was discovered during 1993 when the following constituents of concern were discovered in soil and groundwater beneath the Site: petroleum constituents (including benzene, toluene, ethylbenzene and xylenes), Total Petroleum Hydrocarbon-Stoddard solvents

(TPHss), TPH-diesel, TPH-gasoline, and chlorinated volatile organic compounds (tetrachloroethene (PCE) and trichloroethene (TCE). Releases are known to have occurred at dry cleaners during ordinary operations, including loading solvent into the dry cleaning equipment or storage containers, boilovers, leaks and other causes.

In 1997, six underground storage tanks (UST) and associated piping systems were closed in-place, by backfilling with either cement-sand slurry or pea gravel, by HK2, Inc. of San Mateo. Based on their close proximity to concrete walls, machinery, and utility lines, it was not possible to remove the tanks. Four of these tanks were located inside the Site's building and two were located under the sidewalk on 38th Street in the vicinity of the Earl Thompson property. These tanks previously contained TPHss, TPH-diesel, and PCE.

- 3. Named Dischargers:** Stuart Depper is named as a discharger because he owns and operates the dry cleaning business at the Site which discharged cleaning solvents and has an ongoing discharge of pollutants. He has knowledge of the discharge and activities that caused the discharge, and has the legal ability to control the discharge.

Eric Depper is named as a discharger because he is an owner and operator of the Site where there is an ongoing discharge of pollutants. He has knowledge of the discharge and activities that caused the discharge, and has the legal ability to control the discharge.

Glovatorium, Inc. is named discharger because of substantial evidence that it discharged pollutants to soil and groundwater at the Site.

Martha Depper is not named as a discharger because she is successor trustee of the Trust that has no ownership interest in the Site and she does not own or operate the dry cleaning business at the Site. Robert Depper is not named as a discharger because he passed away in 2001.

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.

- 4. Regulatory Status:** This Site is currently not subject to a Regional Water Board order. Regulatory oversight of the Site was transferred from Alameda County Environmental Health Services to the Regional Water Board on May 31, 2012.
- 5. Site Hydrogeology:** The Site is located on the alluvial plain between the San Francisco Bay shoreline and the Oakland Hills. Surface sediments in the Site's vicinity consist of Holocene alluvial deposits representative of an alluvial fan depositional environment. These deposits consist of brown, medium-dense sand that tend to fines upward to sandy or silty clay. The pattern of stream channel deposition results in a three-dimensional network of coarse-grained sediments interspersed with finer-grained silts and clays. The individual units tend to be discontinuous lenses aligned parallel to the axis of the former stream flow direction or north-south of the Site. The sediments encountered in soil borings are predominantly fine to medium grained sand, coarse sand, gravel, silty clay, sandy clay, gravelly clay and clayey silt.

- 6. Hydrology:** The nearest surface water body is Glen Echo Creek, located approximately 3,500 feet northeast of the Site. Glen Echo Creek is a tributary to Lake Merritt. A 54-inch, inside-diameter stormwater culvert passes under the Site, from Manila Avenue to the west, to 38th Street to the south. This culvert conveys stormwater flows from the urban landscape. The storm water culvert daylighted temporarily to an engineered swale 150 feet south of the Site. This swale is channelized below ground 600 feet from the Site, ultimately reaching Lake Merritt located approximately 2 miles to the South of the Site. The nearest public supply well is located four miles to the north of the Site. Sixty four notification letters were sent to neighboring properties, located 600 feet or less down gradient and cross gradient of the Site, to determine if these property owners had a backyard water supply well. A door-door survey was also conducted 200 feet from the leading edge of the groundwater plume. Eighteen addresses verified that they do not have a water supply well. The average depth to groundwater varies seasonally between 5 and 11 feet below ground surface (bgs) and the groundwater flow direction is towards the west/southwest at a variable gradient as high as 0.06 feet/feet.
- 7. Remedial Investigation:** To date, soil and groundwater remedial investigations have been conducted at the Site by various consultants beginning in 1998 (Figure 2). Based on those investigations, the maximum detected concentrations of constituents of concern by medium have been summarized and presented in Table I below:

Table I: Historical Maximum Contaminant Concentrations by Medium

Contaminant	Groundwater (µg/l)	Soil (mg/kg)	Soil Vapor (µg/m ³)
PCE	2,800	320,000	Unknown
TCE	340	0.48	Unknown
Cis – 1,2 Dichloroethylene	1,200	1.0	Unknown
Vinyl chloride	0.001	<0.096	Unknown
TPHss	9,400,000	91,000	Unknown
TPH-diesel	1,300,000	2,100	Unknown
TPH-gasoline	6,000	19,000	Unknown
Benzene	0.002	<0.0049	Unknown
Methyl tert- butyl ether (MtBE)	170	0.044	Unknown

The chlorinated volatile organic compounds concentrations and petroleum hydrocarbons in groundwater are substantially above the drinking water standards. For example, the drinking water quality criteria or maximum contaminant level (MCL), for PCE and TCE is 5µg/L. The MCL for cis – 1,2 DCE is 6.0 µg/l and the MCL for TPH-diesel and TPH-gasoline is 100 µg/l.

In order to evaluate the presence of chlorinated volatile organic compounds in void spaces of the vadose zone south west of the Site, next to the two nearby residences, a soil

vapor study was conducted in 2004. The result of this historical investigation concluded that the vadose zone beneath the residential units is not conducive to migration of the subsurface contaminant vapors, due to the low permeability of subsurface soils with respect to air. However, the presumption that a clay cap is continuous across the Site does not accurately reflect the Site's stratigraphic data, nor is it consistent with the expected conditions based on the alluvial depositional environment and the likelihood that portions of the Site include fill material. Boring logs B-1, B-7, B-12 indicate that there is an average depth of 8 feet of fine to medium grain sand, coarse sand, and gravel below ground surface within these borings, respectively. The inability to collect soil vapor samples from a designated depth is not sufficient to assume that a potential for vapor intrusion does not exist without attempting to conduct sub-slab vapor sampling or side-step the sampling location.

To date, soil vapor sampling data has not been collected below the Site and its vicinity. This data gap must be addressed. This Order requires soil vapor sampling to determine if additional source area investigation and remediation must be implemented at the Site to reduce the threat to water quality, public health, and the environment posed by the discharge of waste

The remedial investigation is not complete. Further evaluation of source areas and further definition of the vertical and lateral extent of the constituents of concern in soil, soil vapor, and groundwater is required by this Order. To date, a public participation plan has not been implemented at the Site.

8. **Interim Remedial Measures:** Removal of free product (FP), predominantly Stoddard solvent, began in 2002 from well SOMA-4 and was accomplished with a skimmer pump. In August 2004, SOMA converted borings B-3 and B-8 into wells for removal of FP and later a pneumatic pump was introduced to remove FP from wells B-8R, B-10R, MPE-2, MPE-5, and SOMA 4R.

Operation of a Multi-Phase Extraction (MPE) soil vapor and groundwater extraction system was conducted from 2008 through 2012. The MPE system extracted approximately 8,100 pounds of TPHss during system operations. The MPE operations were discontinued in 2013 as the dischargers decided to rely on natural attenuation to degrade the constituents of concern.

The 2012-2015 groundwater monitoring data included in Table II below indicates that there has been contaminant rebound, post-interim remediation. Therefore, the contaminant plumes are not stable at this time. This groundwater sampling data was also collected at a subset of monitoring wells and do not reflect a comprehensive distribution of the constituents of concern in groundwater at the Site and its vicinity. Finally, based on the presence of TPHss in groundwater at concentrations in excess of its solubility limit, free product at and near the Site requires further delineation and remediation.

Table II: Maximum Contaminant Concentration Trends During and Post Interim Remediation

¹ Contaminant in Groundwater	2012 Maximum Contaminant Concentration During Remediation (µg/l)	2013 Maximum Contaminant Concentration Post - Remediation (µg/l)	2014 Maximum Contaminant Concentration Post - Remediation (µg/l)	2015 Maximum Contaminant Concentration Post - Remediation (µg/l)
PCE	120	ND ²	170	90
TCE	360	ND ²	99	24
Cis – 1,2 DCE	1,800	28	1,300	1,200
Vinyl chloride	11	8.6	76	35
TPHss	230,000	100,000	22,000	8,100
TPH-diesel	N/A ¹	N/A ³	N/A ³	N/A ³
TPH- gasoline	340,000 ¹	N/A ³	N/A ³	N/A ³
¹ Benzene	0.5	ND ²	1.6	0.6
MtBE	15	ND ²	170	120

¹ The analyzed chromatographs for TPH-diesel and TPH-gasoline did not exactly match the standard diesel and gasoline chromatographs.

² ND: Not detected above the laboratory detection limit.

³ N/A: Not Available. This analyte was not analyzed.

The dischargers must obtain additional data to verify that the contaminant plumes are stable or decreasing in areal extent. Additionally, the dischargers must determine if additional secondary source removal is needed to ensure there is no post-remediation rebound of constituents of concern. This data will also assist in determining if a long-term monitoring program is needed to check for plume stability and contaminant rebound.

- 9. Adjacent and Nearby Sites:** The Earl Thompson property is a 0.2-acre site located at 316 38th Street, Oakland. This property is located cross-gradient and to the east of the Site. TPHss was stored and used for dry cleaning purposes at the Earl Thompson property between 1911 through the 1970s. TPHss was stored in three USTs located along 38th Street. TPHss were also detected in soil and groundwater at this site. The USTs were closed in place in 2008 under Oakland Fire Department oversight. The tanks were closed in place based on of the tanks' close proximity to high voltage lines that made removal impossible. These USTs are the only known potential source of hydrocarbon release from the Earl Thompson property. Soil and soil vapor are not fully characterized at the Earl Thompson property.

The Red Cross building property at 3901 Broadway is located upgradient and northeast of the Site. The Red Cross installed an aboveground storage (AST) diesel tank in 1999.

The tank is located within a concrete berm and there has never been a reported release from the diesel AST. There is no evidence that this AST is responsible for contamination at the Site.

A Unocal Service Station at 3943 Broadway is located cross-gradient and approximately 150 feet north of the Site. This site has confirmed releases of petroleum hydrocarbons and fuel oxygenates to soil and groundwater. It is currently an active case. There is insufficient evidence to determine whether fuel-related constituents from this gas station have commingled with contamination at the Site.

If additional information is submitted indicating that other sites may have contributed to this Sites' environmental impacts, the Regional Water Board will consider naming the owners/operators of such sites as dischargers.

- 10. Basin Plan:** The Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan) is the Board's master water quality control planning document. It designates beneficial uses and water quality objectives for waters of the State, including surface waters and groundwater. It also includes programs of implementation to achieve water quality objectives. The Basin Plan was duly adopted by the Regional Water Board and approved by the State Water Resources Control Board, Office of Administrative Law and the United States Environmental Protection Agency, where required.

The potential beneficial uses of groundwater underlying and adjacent to the Site include:

- a. Municipal and domestic water supply
- b. Industrial process water supply
- c. Industrial service water supply
- d. Agricultural water supply

At present, there are no known uses of the shallow groundwater zone underlying the Site immediate area for the above purposes.

The existing and potential beneficial uses of Lake Merritt include:

- a. Industrial process supply or service supply
- b. Wildlife habitat
- c. Fish migration and spawning
- d. Estuarine habitat
- e. Shellfish harvesting
- f. Preservation of rare and endangered species

- 11. State Water Board Policies:** State Water Board Resolution No. 68-16, "Statement of Policy with Respect to Maintaining High Quality of Waters in California," applies to this discharge. It requires maintenance of background levels of water quality unless a lesser water quality is consistent with maximum benefit to the people of the State, will not unreasonably affect present and anticipated beneficial uses, and will not result in exceedance of applicable water quality objectives. This Order and its requirements are consistent with Resolution No. 68-16.

State Water Board Resolution No. 92-49, "Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under California Water Code (Water Code) Section 13304," applies to this discharge. It directs the Regional Water Boards to set cleanup levels equal to background water quality or the best water quality which is reasonable, if background levels cannot be restored. Cleanup levels other than background must be consistent with the maximum benefit to the people of the State, not unreasonably affect present and anticipated beneficial uses of such water, and not result in exceedance of applicable water quality objectives. The remedial action plan will assess the feasibility of attaining background levels of water quality. This order and its requirements are consistent with the provisions of Resolution No. 92-49, as amended.

State Water Board Resolution No. 88-160 allows discharges of extracted, treated groundwater from site cleanups to surface waters only if it has been demonstrated that neither reclamation nor discharge to the sanitary sewer is technically and economically feasible.

12. **Other Regional Water Board Policies:** Regional Water Board Resolution 89-39, "Sources of Drinking Water," defines potential sources of drinking water to include all groundwater in the region, with limited exceptions for areas of high total dissolved solids, low yield, or naturally-high contaminant levels. The groundwater at this Site is a potential source of drinking water.
13. **Preliminary Cleanup Goals:** Pending the establishment of site-specific cleanup levels, preliminary cleanup goals are required for the purpose of conducting remedial investigation, interim remedial actions and the draft remedial action plan. These goals shall address all relevant media (groundwater, soil, and soil vapor) and all relevant concerns such as but not limited to: groundwater ingestion, vapor intrusion, dermal contact, and migration of groundwater to surface waters.
14. **Basis for 13267 and 13304 Order:** Water Code section 13267 authorizes the Regional Water Board to require a person who has discharged, discharges, or is suspected of having discharged or discharging, to furnish technical or monitoring program reports. The burden of the reports required by this Order bears a reasonable relationship to the need for the report and the benefits to be obtained (to characterize the extent of contamination, the associated risks to human health and the environment, and document success of remediation efforts).

California Water Code Section 13304 authorizes the Regional Water Board to issue orders requiring a discharger to clean up and abate waste where the discharger has caused or permitted waste to be discharged or deposited where it is or probably will be discharged into waters of the State and creates or threatens to create a condition of pollution or nuisance. As discussed above, each of the dischargers has caused or permitted waste to be discharged or deposited, causing contamination of groundwater. Contamination of groundwater creates and threatens to create conditions of pollution and nuisance.

- 15. Cost Recovery:** Pursuant to Water Code section 13304, the dischargers are hereby notified that the Regional Water Board is entitled to, and may seek reimbursement for, all reasonable costs actually incurred by the Regional Water Board to investigate unauthorized discharges of waste and to oversee cleanup of such waste, abatement of the effects thereof, or other remedial action, required by this Order.
- 16. California Environmental Quality Act (CEQA):** This action is an order to enforce the laws and regulations administered by the Regional Water Board. As such, this action is categorically exempt from the provisions of CEQA pursuant to Title 14 of the California Code of Regulations, section 15321.
- 17. California Safe Drinking Water Act:** 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 the lower of primary and secondary maximum contaminant levels designed to protect human health and ensure that water is safe for domestic use.
- 18. Notification:** The Regional Water Board has notified the discharger and all interested agencies and persons of its intent under Water Code section 13304 to prescribe site cleanup requirements for the discharge, and has provided them with an opportunity to submit their written comments.
- 19. Public Hearing:** The Regional Water Board, at a public meeting, will hear and consider all comments pertaining to the proposed site cleanup requirements for the Site.

IT IS HEREBY ORDERED, pursuant to sections 13304 and 13267 of the Water Code, that the dischargers (or their agents, successors, or assigns) shall cleanup and abate the effects described in the above findings as follows:

A. PROHIBITIONS

1. The discharge of wastes or hazardous substances in a manner that will degrade water quality or adversely affect beneficial uses of waters of the State is prohibited.
2. Further significant migration of wastes or hazardous substances through subsurface transport to waters of the State is prohibited.
3. Activities associated with the subsurface investigation and cleanup that will cause significant adverse migration of wastes or hazardous substances are prohibited.

B. PRELIMINARY CLEANUP GOALS

The following preliminary cleanup goals shall be used to guide remedial investigation and interim remedial actions, pending establishment of site-specific cleanup levels.

- a. Groundwater: Applicable screening levels such as the Regional Water Board's Environmental Screening Levels (ESLs) document. Groundwater screening levels shall incorporate at least the following exposure pathways: groundwater ingestion and vapor intrusion to indoor air. For groundwater ingestion, use applicable water quality objectives (e.g. lower of primary and secondary maximum contaminant levels, or MCLs) or, in the absence of a chemical-specific objective, equivalent drinking water levels based on toxicity and taste and odor concerns.
- b. Soil: Applicable screening levels such as the Regional Water Board's Environmental Screening Levels (ESLs) document. Soil screening levels are intended to address a full range of exposure pathways, including direct exposure, nuisance, and leaching to groundwater. For purposes of this subsection, the discharger shall assume that groundwater is a potential source of drinking water.
- c. Soil vapor: Applicable screening levels such as the Regional Water Board's Environmental Screening Levels (ESLs) document. Soil vapor screening levels are intended to address the vapor intrusion to indoor air pathway.

C. TASKS

1. COMPLETION OF CONDUIT STUDY

COMPLIANCE DATE: September 30, 2015

Submit a technical report acceptable to the Executive Officer documenting completion of an up-to-date conduit study. A conduit study is required to evaluate the role of subsurface utilities in the migration or accumulation of the constituents of concern in the subsurface.

2. PUBLIC PARTICIPATION PLAN

COMPLIANCE DATE: September 30, 2015

Submit a technical report acceptable to the Executive Officer to ensure adequate public participation will be undertaken at key steps in the remedial action process leading to case closure.

3. REMEDIAL INVESTIGATION WORKPLAN (DATA GAPS)

COMPLIANCE DATE: October 30, 2015

Submit a work plan acceptable to the Executive Officer to further evaluate all source areas and to define the vertical and lateral extent of the constituents of concern in soil, soil vapor, and groundwater. The work plan shall specify investigation methods and a proposed time schedule.

4. COMPLETION OF REMEDIAL INVESTIGATION (DATA GAPS)

COMPLIANCE DATE: 90 Days after Executive Officer approval of Task 3 Work Plan

Submit a technical report acceptable to the Executive Officer documenting completion of necessary tasks identified in the Task 3 work plan. The technical report shall define the vertical and lateral extent of pollution down to concentrations at or below typical cleanup standards for soil, soil vapor, and groundwater.

5. COMPLETION OF HUMAN HEALTH RISK ASSESSMENT

COMPLIANCE DATE: 90 Days after Executive Officer approval of Task 4.

Submit a technical report acceptable to the Executive Officer documenting the completion of an appropriate human health risk assessment that addresses current and post-cleanup exposures.

6. INTERIM REMEDIAL ACTION WORKPLAN

COMPLIANCE DATE: 45 days following Executive Officer requirement letter

Submit a workplan acceptable to the Executive Officer to evaluate interim remedial action alternatives for soil, soil vapor, and groundwater contamination and recommend alternatives for implementation onsite and/or offsite. The workplan shall specify a proposed time schedule for implementation of interim remedial actions. The Executive Officer will require this workplan if site contamination poses a potential threat to human health (e.g., indoor air concentrations are above ESLs for the contaminants of concern).

7. COMPLETION OF INTERIM REMEDIAL ACTIONS

COMPLIANCE DATE: 120 days following Executive Officer approval of Task 6 Workplan

Submit a technical report acceptable to the Executive Officer documenting completion of the tasks identified in the Task 4 workplan. For ongoing actions, such as soil vapor extraction, groundwater extraction, or mitigation of impacts to an offsite domestic or agricultural well, the report shall document start-up, monitoring, and ongoing operations as opposed to completion.

8. REMEDIAL ACTION PLAN INCLUDING DRAFT CLEANUP LEVELS

COMPLIANCE DATE: 90 Days after Executive Officer approval of Task 7.

Submit a technical report acceptable to the Executive Officer containing:

- a. Summary of the remedial investigation
- b. Evaluation of the installed interim remedial actions measures
- c. Feasibility study evaluating alternative final remedial actions
- d. Summary of risk assessment

- e. Recommended final remedial actions and cleanup standards
- f. Implementation tasks and time schedule

Item c shall include projections of cost, effectiveness, benefits, and impact on public health, welfare, and the environment of each alternative action.

Items a through c shall be consistent with the guidance provided by Subpart F of the National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR Part 300), CERCLA guidance documents with respect to remedial investigations and feasibility studies, Health and Safety Code section 25356.1(c), and State Water Board Resolution No. 92-49 as amended ("Policies and Procedures for Investigation and Cleanup and Abatement of Discharges Under Water Code section 13304").

Item e shall consider the preliminary cleanup goals for soil and groundwater identified in finding 13 and shall address the attainability of background levels of water quality (see finding 11).

9. DELAYED COMPLIANCE

If the dischargers are delayed, interrupted, or prevented from meeting one or more of the completion dates specified for the above tasks, the discharger shall promptly notify the Executive Officer, and the Regional Water Board or Executive Officer may consider revision to this Order.

D. PROVISIONS

1. **No Nuisance:** The storage, handling, treatment, or disposal of polluted soil or groundwater, shall not create a nuisance as defined in Water Code section 13050(m).
2. **Good Operations and Maintenance (O&M):** The dischargers shall maintain in good working order and operate as efficiently as possible any facility or control system installed to achieve compliance with the requirements of this Order.
3. **Cost Recovery:** The dischargers are liable, pursuant to Water Code section 13304, to the Regional Board for all reasonable costs actually incurred by the Regional Water Board to investigate unauthorized discharges of waste and to oversee cleanup of such waste, abatement of the effect thereof, or other remedial action, required by this Order. If the Site addressed by this Order is enrolled in a State Water Board-managed reimbursement program, reimbursement shall be made pursuant to this Order and according to the procedures established in that program. Any disputes raised by the discharger over reimbursement amounts or methods used in that program shall be consistent with the dispute resolution procedures for that program.
4. **Access to Site and Records:** In accordance with Water Code section 13267(c), the dischargers shall permit the Regional Water Board or its authorized representative:
 - a. Entry upon premises in which any pollution source exists, or may potentially exist, or in which any required records are kept, which are relevant to this Order.

- b. Access to copy any records required to be kept under the requirements of this Order.
 - c. Inspection of any monitoring or remediation facilities installed in response to this
 - d. Sampling of any groundwater or soil which is accessible, or may become accessible, as part of any investigation or remedial action program undertaken by the dischargers.
- 5. Self-Monitoring Program:** The dischargers shall comply with the Self-Monitoring Program as may be established by the Executive Officer.
- 6. Contractor / Consultant Qualifications:** All technical documents shall be signed by and stamped with the seal of a California registered geologist, a California certified engineering geologist, or a California registered civil engineer.
- 7. Lab Qualifications:** All samples shall be analyzed by State-certified laboratories or laboratories accepted by the Regional Water Board using approved United States Environmental Protection Agency methods for the type of analysis to be performed. Quality Assurance/Quality Control (QA/QC) records shall be maintained for Regional Water Board review. This provision does not apply to analyses that can only reasonably be conducted onsite (e.g. temperature).
- 8. Document Distribution:** Copies of all correspondence, technical reports and other documents pertaining to compliance with Order shall be provided to the following agencies:
- Regional Water Quality Control Board
 - City of Oakland Fire Department
 - Alameda County Department of Environmental Health Services
- The Executive Officer may modify this distribution list as needed.
- Electronic copies of all correspondence, technical reports, and other documents pertaining to compliance with this Order shall be uploaded to the State Water Board's GeoTracker database within five business days after submittal to the Regional Water Board. Guidance for electronic information submittal is available at: http://www.waterboards.ca.gov/water_issues/programs/ust/electronic_submittal
- 9. Reporting Changed Owner or Operator:** The dischargers shall file a technical report on any changes in contact information, Site occupancy or ownership associated with the property described in this Order.
- 10. Reporting of Hazardous Substance Release:** If any hazardous substance is discharged in or on any waters of the State, or discharged or deposited where it is, or probably will be, discharged in or on any waters of the State, the dischargers shall report such discharge to the Regional Water Board by calling (510) 622-2369.

A written report shall be filed with the Regional Water Board within five working days. The report shall describe: the nature of the hazardous substance, estimated quantity involved, duration of incident, cause of release, estimated size of affected area, nature of effect, corrective actions taken or planned, schedule of corrective actions planned, and persons/agencies notified.

This reporting is in addition to reporting to the California Emergency Management Agency required pursuant to the Health and Safety Code.

11. Periodic Order Review: The Regional Water Board will review this Order periodically and may revise it when necessary. The dischargers may request revisions and upon review the Executive Officer may recommend that the Regional Water Board revise these requirements.

I, Bruce H. Wolfe, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on _____.

Bruce H. Wolfe
Executive Officer

=====
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
=====

Attachments:

- Figure 1: General Vicinity Map
- Figure 2: Site Map showing Locations of Monitoring Wells, Soil Borings, and Preferential Flow Pathways

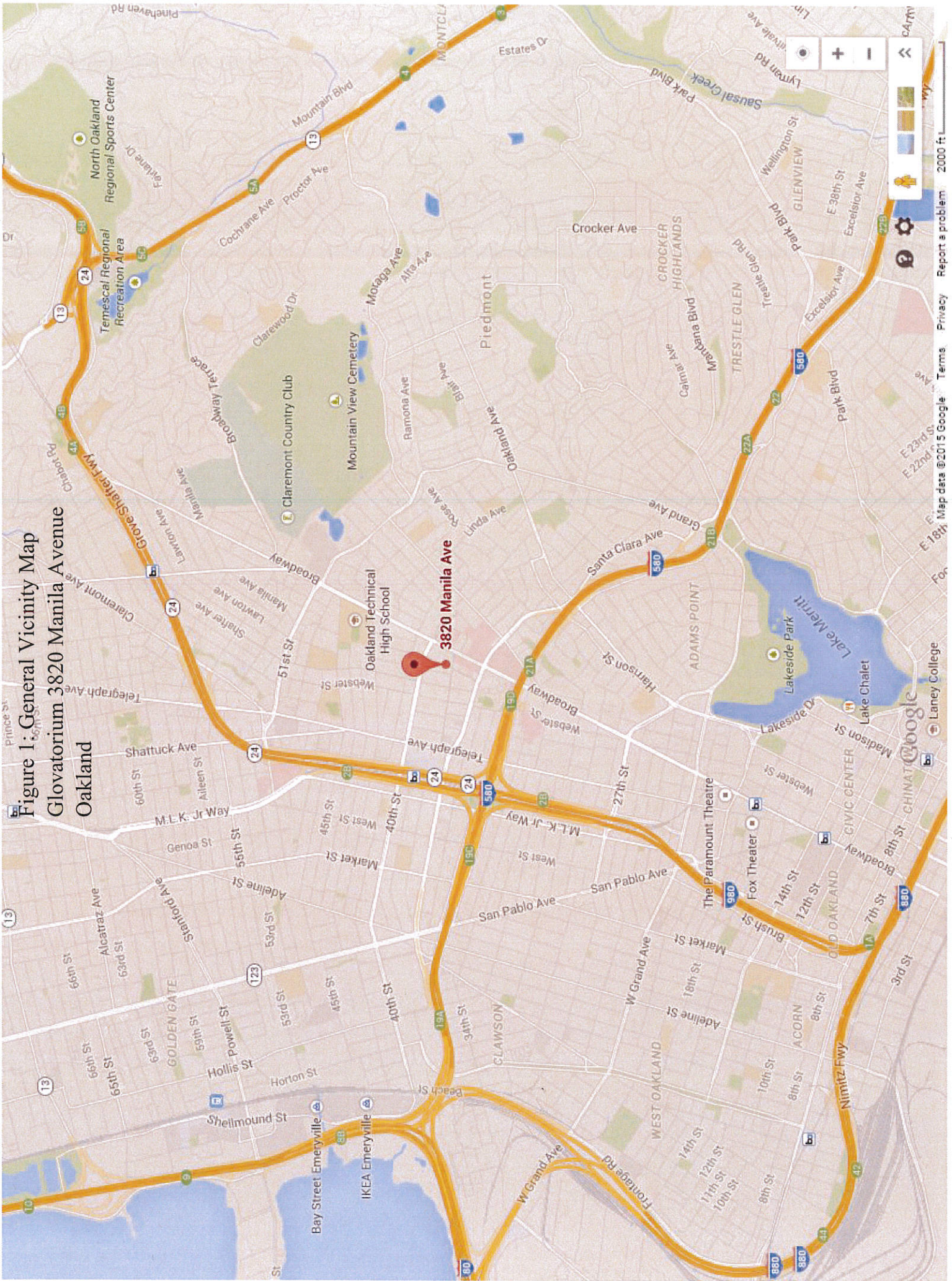


Figure 1: General Vicinity Map
Glovatorium 3820 Manila Avenue
Oakland



- ▲ SOMA Monitoring Well
- ▲ TOSCO Monitoring Well
- ▲ Geosolv Monitoring Well
- ▲ LFR Monitoring Wells
- 54" Diameter Storm Conduit
- Storm Conduit Manhole
- 10" Diameter Cast Iron Sanitary Sewer w/ Floor Drains
- Sanitary Sewer Manhole
- USTs Owned by Earl Thompson



Figure 2: Site map showing locations of monitoring wells, soil borings, and preferential flow pathways.

