

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

TENTATIVE ORDER

**AMENDMENT OF FINAL SITE CLEANUP REQUIREMENTS
(ORDER R2-2020-0025) for:**

**MARINWOOD PLAZA, LLC
HOYTT ENTERPRISES, INC.**

for the property located at:

*187 MARINWOOD AVENUE
MARINWOOD, MARIN COUNTY*

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

- 1. Regional Water Board Orders:** The Regional Water Board adopted Final Site Cleanup Requirements Order R2-2020-0025 (2020 Order) for the Site (Marin County assessor parcel numbers 164-471-64, 164-471-65, 164-471-69, and 164-471-70) on September 9, 2020. The 2020 Order requires Marinwood Plaza, LLC and Hoytt Enterprises, Inc. (jointly, the Discharger) to implement, among other things, remedial actions.
- 2. Reasons for Amendment:** Provision D.12 of the 2020 Order authorizes the periodic review and revision of the order when necessary. Amendment of the 2020 Order is needed to update the status of remedial actions and to establish deadlines and clarify requirements for onsite soil vapor remediation, as explained below:
 - a) **Updated Status of Remedial Actions:** Finding 11 of the 2020 Order discusses remedial actions that, as of the adoption date of the 2020 Order, were not implemented. The status of the remedial actions is updated as follows:
 - **Soil Vapor/Indoor Air (Finding 11.a):** The additional excavation and treatment proposed in *Remedial Action Plan (RAP) Addendum #4*, which was submitted January 3, 2019, and approved on April 3, 2019, had not been implemented at the time the 2020 Order was adopted. These remedial actions have still not been implemented.
 - **Groundwater Cleanup (Finding 11.c):** Treatment of the full groundwater plume, as approved on April 23, 2018, in accordance with the *Pilot Test Implementation and Off-Site Groundwater Remediation Report* had not been implemented at the time the 2020 Order was adopted. However, since then the full groundwater plume has been treated. Treatment occurred from April to August 2021 as documented in *Groundwater Remediation Implementation Report (Parts 1 and 2)*, dated June 30 and August 31, 2021. The Assistant Executive Officer approved the *Groundwater Remediation Implementation Report (Parts 1 and 2)* on October 5, 2021.

- b) **Deadlines for Implementing Onsite Soil Vapor Remediation:** Section B.1 of the 2020 Order requires implementation of the RAP described in Finding 11 of the 2020 Order. This amendment adds a deadline of July 29, 2022, to the 2020 Order for the Discharger to implement and complete the remedial actions set forth in *RAP Addendum #4*. This deadline is consistent with the implementation schedule the Discharger submitted on April 5, 2022, in its First Quarter 2022 Progress Report.
 - c) **Deadline and Requirements for Submitting an Implementation Report for Onsite Soil Vapor Remediation:** This amendment adds a task to the 2020 Order to require the Discharger to submit a report under Water Code section 13267 documenting implementation and completion of the remedial actions set forth in *RAP Addendum #4*, and lists what must be included in the report to be acceptable. The report is needed to verify that the remediation has been completed. The burden, including costs, of the report bears a reasonable relationship to the need for the report and the benefits to be obtained from the report. The cost to prepare the report is modest and will ensure that the delayed soil vapor remediation, which has significant community interest, has been satisfactorily completed as necessary to protect human health and the environment.
3. **Reporting on Onsite Soil Vapor Remediation:** The Discharger must inform the Regional Water Board of remedial activities conducted to implement the onsite soil vapor remediation required by Section B.1 of the 2020 Order in monthly progress reports pursuant to a Water Code 13267 order issued to the Discharger on April 21, 2022. The monthly progress report due on July 30, 2022, must therefore include specific information about the following activities scheduled for July as presented in the First Quarter 2022 Progress Report: pre-excavation soil sampling, excavation, confirmation sampling (and over-excavation if needed), and backfilling.
 4. **Remediation Effectiveness Evaluation Reports:** Task 7 of the 2020 Order requires the Discharger to report on the effectiveness of the remedial actions included in the approved RAP by June 30, 2022, and every year thereafter. Therefore, the report due on June 30, 2022, must evaluate the effectiveness of remedial activities conducted to date, including groundwater treatment, and the cutoff trenches installed to prevent offsite soil vapor migration. The report due on June 30, 2023, must include an evaluation of the effectiveness of soil vapor remediation required by this amendment (in addition to the other remedial actions taken).
 5. **Human Right to Water:** Under Water Code section 106.3, the State of California's policy is that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. (Wat. Code, § 106.3; see also State Water Board Resolution No. 2016-0010.) The human right to water extends to all Californians, including disadvantaged individuals and groups and communities in rural and urban areas. This order promotes the human right to water by requiring discharges to meet maximum contaminant levels designed to protect human health and ensure that water is safe for domestic use.
 6. **CEQA:** This Order is exempt from the provisions of the California Environmental Quality Act (CEQA) because "CEQA applies only to projects that have the potential

for causing a significant effect on the environment.” (Cal. Code Regs., tit. 14 § 15061, subd. (b)(3).) Adoption of this Order is intended to support existing site cleanup requirements (see Finding 2) and will have no significant environmental effects.

7. **Notification:** The Regional Water Board has notified the Discharger and all interested agencies and persons of its intent under Water Code section 13304 to amend site cleanup requirements for the discharge and has provided them with an opportunity to submit written comments.
8. **Public Hearing:** The Regional Water Board, at a public meeting, heard and considered all comments pertaining to this discharge.

IT IS HEREBY ORDERED, pursuant to Water Code sections 13304 and 13267, that Final Site Cleanup Requirements Order R2-2020-0025 shall be amended as follows:

A. Section B.1 (Remedial Action Plan and Cleanup Levels; Implement Remedial Action Plan)

Replace the text “The Discharger shall implement the remedial action plan described in finding 11.” with the following:

The Discharger shall implement and complete the remedial actions set forth in RAP Addendum #4, submitted January 3, 2019, and approved on April 3, 2019, by July 29, 2022.

B. New Task 1.c

Add a new task as follows:

1.c. ONSITE SOIL VAPOR REMEDIATION IMPLEMENTATION REPORT

COMPLIANCE DATE: September 9, 2022

Submit a technical report, acceptable to the Executive Officer, describing the implementation and completion of the onsite soil vapor remediation proposed in RAP Addendum #4. At a minimum, this report shall document the implementation and completion of pre-excavation soil sampling, excavation, confirmation sampling, over-excavation as warranted, backfilling, and soil/groundwater storage and disposal. The report shall also describe these remediation activities and provide documentation that includes figures (showing excavation boundaries, depths, and soil sample locations), laboratory analytical results for samples collected, and records of waste disposal.

I 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 **DATE**.

Thomas Mumley, Interim Executive Officer

Compliance Notice: Failure to comply with the requirements of this order may subject the Discharger 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.