

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
LOS ANGELES REGION

RESOLUTION R21-004

AUTHORIZING REFERRAL OF CLEANUP AND ABATEMENT ORDER NO.  
R4-2021-0038 AS AMENDED BY R4-2021-0038-A1 TO THE OFFICE OF THE  
ATTORNEY GENERAL FOR JUDICIAL CIVIL ENFORCEMENT AND OTHER  
RELIEF

WHEREAS:

1. On February 4, 2021, the California Regional Water Quality Control Board, Los Angeles Region (Los Angeles Water Board) adopted Cleanup and Abatement Order No. R4-2021-0038 (2021 CAO), pertaining to the Garfield Express site (Site), located at 11600 Long Beach Boulevard, Lynwood, California 90262. On March 1, 2021, the 2021 CAO was amended by R4-2021-0038-A1 for editorial changes only.
2. The following parties were identified as dischargers in the 2021 CAO: Blake Alsbrook (Receiver), in his official capacity as Successor Trustee of the Louis and Alice Ross Family Trust (Ross Family Trust), Kyung Sun Kim, Kang Il Kim, Rocket Cleaners Corp., Chia Te Ho, Ralph Galvan, Rocket Cleaners and Laundry Services, National Cleaners and Laundry Services, Manuel Aguirre and Susan Aguirre.
3. The Site is located within Census Tract 6037541700, which has an estimated population of 6,366, and within a “disadvantaged community” pursuant to Senate Bill 535. According to CalEnviroScreen 3.0 (Interactive tool can be located at: <https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-30>), Census Tract 6037541700 is classified as one of the California communities most disproportionately burdened by, and vulnerable to, multiple sources of pollution, and currently assigned a 90 percent pollution burden score. The land use setting in the vicinity of the Site consists of commercial, industrial and residential properties. The Los Angeles River is located approximately 1.85 miles to the east from the Site. There are eight drinking water wells within a mile of the Site, one of which has been impacted by perchloroethylene (also referred to as “PCE” or tetrachloroethylene), a solvent used in dry cleaning and found in some waste oil tanks. Historically, depth to groundwater has been as shallow as 18 feet below ground surface (bgs).
4. The Site is the location of a former dry-cleaning operation and multiple fuel service stations. Site investigations revealed elevated levels of adsorbed-phase petroleum hydrocarbons on soils, separate-phase hydrocarbons (“SPH” or “free product”) and dissolved-phase hydrocarbons including total petroleum hydrocarbons as gasoline (TPHg), aromatic volatile organic compounds (VOCs) and chlorinated volatile organic compounds (CVOCs) in groundwater.
  - a. The maximum historical soil concentrations at the Site are shown in the table, below:

<b>Chemical</b>	<b>Sample ID</b>	<b>Concentration (mg/kg<sup>1</sup>)</b>	<b>Depth (feet)</b>	<b>Date</b>
TPH <sup>2</sup>	VEW-9-5	12,900	5	9/28/2000
Benzene	B5-5	210	5	3/7/1997
Toluene	B11-25	1,400	25	3/7/1997
Ethylbenzene	B11-25	370	25	3/7/1997
Xylenes	B11-25	2,200	25	3/7/1997
MTBE <sup>3</sup>	W&AHVW1-23	3,400	23	3/4/2003
TBA <sup>4</sup>	VEW-9-10	68.3	10	9/28/2000
Naphthalene	W&AHVW3-22.5	75	22.5	3/4/2003
TAME <sup>5</sup>	VEW-8-10	25.8	10	9/28/2000
PCE <sup>6</sup>	W&ASB2-26.5	104	26.5	3/3/2003
TCE <sup>7</sup>	W&ASB4-11	0.046	11	3/3/2003
1,2,4-TMB <sup>8</sup>	W&AHVW1-23	828	23	3/4/2003
1,3,5-TMB	W&AHVW1-6	413	6	3/4/2003

<sup>1</sup> milligrams per kilogram

<sup>4</sup> tertiary butyl alcohol

<sup>7</sup> trichloroethylene

<sup>2</sup> total petroleum hydrocarbons

<sup>5</sup> tertiary amyl methyl ether

<sup>8</sup> trimethylbenzene

<sup>3</sup> methyl tertiary butyl ether

<sup>6</sup> tetrachloroethylene

- b. **Waste Discharges to Groundwater:** The groundwater monitoring network consists of 39 onsite and offsite wells associated with the Garfield Express Site and six onsite wells associated with the adjacent U-Haul property, which is located at 11716 Long Beach Boulevard, Lynwood. According to the report entitled *First Semi-Annual 2019 Groundwater Monitoring Report*, dated April 2019 by Ramboll U.S., nine wells (MW-5, MW-6, MW-13, MW-17, MW-18, MW-19, MW-24, MW-29 and W&A-MW-2) are currently paved over. Collectively, the wells have been monitored on a quarterly and semi-annual monitoring schedule since 1998. Free product was detected in 13 wells with a reported maximum thickness of up to 2.79 feet in MW-12. Laboratory analytical results of groundwater samples collected in January 2019 detected TPHg up to 25,000 micrograms per liter (µg/L), benzene up to 5,000 µg/L, MTBE up to 19,000 µg/L, TBA up to 350,000 µg/L, PCE up to 8.5 µg/L, TCE up to 4.3 µg/L, cis-1,2-dichloroethene (cis-1,2-DCE) up to 13 µg/L and vinyl chloride (VC) up to 590 µg/L.
- c. **Waste Discharges to Soil Vapor:** In August 2000, a soil vapor investigation was performed at the Site by J&B Environmental, Inc., and the results were reported in the document entitled *Soil Vapor Sampling at Garfield Express, 11600 South Long Beach Boulevard, Lynwood, California*. The report noted 16 soil vapor samples were collected from soil probes at five feet bgs and were submitted for laboratory analysis. The analytical results indicated that benzene, toluene, ethylbenzene, xylenes and MTBE were detected at all probe locations. Two probes installed to the north of the former kiosk building (SV-11 and SV-12) and two probes installed at the vacant lot east of the dry cleaner (SV-13 and SV-14) detected PCE concentrations ranging from 1,220

micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ) to 7,340,000  $\mu\text{g}/\text{m}^3$ , TCE concentrations ranging from 2,840  $\mu\text{g}/\text{m}^3$  to 179,000  $\mu\text{g}/\text{m}^3$ , benzene concentrations ranging from 47  $\mu\text{g}/\text{m}^3$  to 9,510,000  $\mu\text{g}/\text{m}^3$ , and MTBE concentrations ranging from 4,000  $\mu\text{g}/\text{m}^3$  to 50,000  $\mu\text{g}/\text{m}^3$ .

On February 27, 2001, the Los Angeles Water Board received a report entitled *Soil Vapor Survey and Subsurface Soil Investigation Report Conducted at Rocket Cleaners* from the City of Lynwood's consultant, Cornerstone Technologies, Inc., reporting the results of a subsurface soil vapor investigation at Rocket Cleaners (a former dry cleaner). During field investigations, an abandoned pipe was identified as possibly being connected with historical dry-cleaning equipment located at VP2 and Louise Street. A total of 64 soil vapor samples were collected from 16 multi-depth soil vapor probes at depths ranging from approximately 5 to 20 feet bgs and analyzed for VOCs. PCE, TCE and benzene were detected up to 10,000,000  $\mu\text{g}/\text{m}^3$ , 39,000  $\mu\text{g}/\text{m}^3$  and 4,500,000  $\mu\text{g}/\text{m}^3$ , respectively. The distribution of the CVOCs was mainly detected at 5 and 10 feet bgs but extended to 20 feet bgs in certain samples (VP4, VP6, VP7, VP9 and VP10, VP11). According to the report, "it can be concluded that significant PCE contamination is widespread within the subject site premise" and that PCE is migrating underneath the clay layer observed at 9 to 18 feet bgs (*Id.* pg. 8).

In April 2010, the City of Lynwood's consultant, Gannett Fleming, conducted an additional soil vapor investigation at the Site and the results were reported in the document entitled *Site Investigation Data Report, I-105/Long Beach Boulevard Project Area, 11600 Long Beach Boulevard, Lynwood, California*, dated July 2010. The report noted that laboratory analytical results of vapor samples collected from soil vapor probes detected PCE concentrations ranging from 1,220  $\mu\text{g}/\text{m}^3$  to 7,340,000  $\mu\text{g}/\text{m}^3$ , TCE concentrations ranging from 2,840  $\mu\text{g}/\text{m}^3$  to 179,000  $\mu\text{g}/\text{m}^3$ , benzene concentrations ranging from 47  $\mu\text{g}/\text{m}^3$  to 9,510,000  $\mu\text{g}/\text{m}^3$ , and MTBE concentrations ranging from 4,000  $\mu\text{g}/\text{m}^3$  to 50,000  $\mu\text{g}/\text{m}^3$ .

5. In February 2020, a shallow soil vapor investigation was performed along the utility corridors and adjacent residential properties, and the results were reported in a document entitled *Limited Soil and Soil Vapor Investigation Report*, dated June 9, 2020 by Ramboll U.S. The report noted that eight soil borings were drilled at utility corridors along Lynwood Road and Lewis Street. Soil samples were collected at depths of 3, 5, and 10 feet bgs, and soil vapor samples were collected at depths of 5 and 15 feet bgs from eleven locations and samples were collected from two locations at a depth of 25 feet bgs. Elevated concentrations of benzene, toluene, MTBE, PCE were detected in soil vapor samples, at concentrations of up 14,000  $\mu\text{g}/\text{L}$ , 27,000  $\mu\text{g}/\text{L}$ , 460,000  $\mu\text{g}/\text{L}$ , and 28  $\mu\text{g}/\text{L}$ , respectively.
6. In June and July 2020, the Receiver issued a Proposition 65 notice in response to learning of elevated levels of benzene, toluene, MTBE and PCE in soil vapor samples reported in the *Limited Soil and Soil Vapor Investigation Report*. The report also indicated risks due to possible vapor intrusion into indoor air near certain residential buildings overlying the contamination.

7. The Los Angeles Water Board is a state agency whose primary authority under the Porter-Cologne Water Quality Control Act (California Water Code § 13000 et seq.) is regulating, enforcing, and ensuring the quality of the waters of the State.
8. The Los Angeles Water Board has reviewed and evaluated technical reports and assessments pertaining to the discharge, detection and distribution of wastes at the Site and its vicinity and concluded that the Site has elevated concentrations of VOCs and petroleum hydrocarbons in the soil, soil vapor, and/or groundwater. The presence of contamination in soil constitutes a continuous source of discharges of waste to groundwater. The migration of discharges through soil vapor may pose a threat to human health. The migration of waste in groundwater constitutes an ongoing discharge.
9. The discharges of waste have adversely impacted waters of the State. The Site overlies groundwater within the Central Basin. The beneficial uses of the groundwater beneath the Sites are designated as municipal (MUN), industrial service (IND), industrial process (PROC), and agricultural supply (AGR).
10. Cleanup and remedial activities were previously regulated by CAO R4-2001-002 (2001 CAO) issued to Louis Ross on February 28, 2001. Louis Ross died on February 24, 2004, and his son, Barry Ross, was assigned as the Successor Trustee of the Ross Family Trust. On May 27, 2009, the Los Angeles Water Board issued Amended CAO R4-2009-0045 (2009 CAO) requiring Barry Ross, Successor Trustee of the Ross Family Trust to investigate, cleanup and abate conditions of soil, soil vapor and groundwater pollution at the Garfield Express Site. The 2009 CAO remains in effect. The Ross Family Trust has not complied with all the required tasks in that Order.
11. The 2021 CAO required the following tasks, which each had an April 5, 2021 deadline:
  - a. Develop and submit a site conceptual model.
  - b. Develop and submit site assessment work plans and reports to assess, characterize, and delineate the extent of wastes in soil vapor, soil matrix, and groundwater.
  - c. Develop an indoor air sampling work plan to assess the cumulative human health risk associated to potential vapor intrusion.
  - d. Submit public participation information (or an updated fact sheet) for review and approval. The required information includes a baseline community assessment, interested persons contact list, and a draft fact sheet.

Of these four deliverables, only a site conceptual model has been submitted.

12. On May 4, 2021, a Notice of Violation (NOV) was issued to the Dischargers for their failure to comply with the 2021 CAO.
13. Los Angeles Water Board staff continue to make efforts to communicate with Dischargers and encourage compliance. Los Angeles Water Board staff also reiterated the urgency and need for cleanup actions at the Site and compliance with

- the 2021 CAO due to the potential human health risks, contaminated groundwater, vapor intrusion, and the unknown delineation of the plume associated with the Site.
14. In February, March and April of 2021, Los Angeles Water Board staff attempted to communicate with Manuel Aguirre, Susan Aguirre, Ralph Galvan and his attorney, Rudy M. A. Cosio, but was met with recalcitrance. These parties have indicated they have no intention of complying with the 2021 CAO.
  15. In April of 2021, Los Angeles Water Board staff communicated with Kang Il Kim on multiple occasions. Mr. Kim and his spouse, Kyung Sun Kim, indicated that they have limited resources to perform the requirements outlined in the 2021 CAO. The financial viability of these individuals is still being evaluated by staff.
  16. Los Angeles Water Board staff conducted numerous meetings with interested parties to explore funding mechanisms for cleanup, including funds administered by the Division of Financial Assistance as well as other sources.
  17. Water Code section 13268 specifies potential consequences for failure to submit reports as required by subdivision (b) of section 13267.
  18. Water Code section 13304, subdivision (a), allows the Los Angeles Water Board to request that the Office of the Attorney General petition the superior court to issue an injunction to compel responsible parties to comply with an order issued pursuant to Water Code section 13304. Similarly, Health and Safety Code section 25299.01 allows the Office of the Attorney General to compel responsible parties to comply with an order issued pursuant to Health and Safety Code section 25296.10.
  19. Water Code section 13340 allows a regional water board to request the Attorney General to petition the superior court to enjoin a discharge when the regional water board finds that a discharge of waste will cause a condition of pollution or nuisance, constituting an emergency requiring immediate action to protect the public health, welfare or safety. The Los Angeles Water Board finds, consistent with the Proposition 65 Notice issued by the Receiver, that the ongoing discharge at the Site constitutes a condition of pollution or nuisance, and constitutes an emergency requiring immediate action to protect the public health, welfare and safety.
  20. The continued migration of contamination through the soil and groundwater is a discharge, and contamination at the site remains unabated and continues to migrate. Since the issuance of the 2009 and 2021 CAOs, Dischargers are alleged to have discharged additional waste, and/or caused or permitted waste to be deposited in or on waters of the State and may be civilly liable under Water Code section 13350, subdivision (a). Under Water Code section 13350, subdivision (d), a court may impose such civil liability not to exceed fifteen thousand dollars (\$15,000) for each day the violation occurs or not to exceed twenty dollars (\$20) for each gallon of waste discharged. Similarly, under Health and Safety Code section 25299(d), a court may impose civil liability not to exceed \$10,000 for each underground storage tank for each day of violation.
  21. Water Code section 13350 also allows the Los Angeles Water Board to request that the Attorney General petition the superior court to impose, assess, and recover

administrative civil liability for violations of cleanup and abatement orders issued pursuant to Water Code section 13304.

22. All enforcement options other than referral to the Office of the Attorney General and any resulting judicial relief have been considered. For example, other possible enforcement avenues include another cleanup and abatement order, cease and desist order, or time schedule order, followed with another administrative civil liability (ACL) process to consider assessing monetary penalties. Because the Los Angeles Water Board has already issued a cleanup and abatement order to the Dischargers, and numerous parties claim limited resources, Board Staff recommend referring the matter to the Attorney General's office, which has flexibility to explore options such as injunctive relief, to remediate the contaminated Site.
23. The complex factual and legal issues presented by these matters are better suited for development and presentation by the Office of the Attorney General and for judicial resolution. Specifically, the history of non-compliance with multiple CAOs, the complex history of the Site, and the likelihood that enforcement through the civil judicial process will expedite the relief sought and protect the community surrounding the Site, all weigh in favor of civil judicial enforcement through the Office of the Attorney General. The relief is urgently needed to ensure the protection of public health, welfare, and the environment from an imminent and substantial threat presented by the Site.
24. Judicial enforcement of the Water Code and/or Health and Safety Code allows for the assessment of higher maximum civil liabilities, if appropriate, as well as the flexibility to pursue injunctive relief and the issuance of a consent judgment, [to ensure that remaining assets are dedicated to cleanup as opposed to administrative civil liabilities]. The ability to pursue injunctive relief and/or a consent judgment would allow the Los Angeles Water Board, through the Office of the Attorney General, to place the Dischargers under a judicially enforceable timeline to complete assessment, delineation of the contaminated plumes, which originated from the Site, and conduct the appropriate cleanup and abatement.
25. Water Code section 13350, subdivision (g), requires the Los Angeles Water Board to hold a hearing, with due notice of the hearing given to all affected persons, prior to requesting the Attorney General to petition a court to impose civil liability under Water Code section 13350. On May 4, 2021, notice was given in accordance with the requirements of applicable statutes regarding this hearing, and Responsible Parties were given a chance to comment on the proposed Resolution in writing in advance of the hearing. On June 10, 2021, the Los Angeles Water Board held such a hearing in compliance with section 13350, subdivision (g), and considered the testimony and evidence offered at the hearing and in the record.

**THEREFORE BE IT RESOLVED**, the Los Angeles Water Board hereby authorizes the Executive Officer to:

1. Request that the Office of the Attorney General seek civil liabilities under the Water Code and/or Health and Safety Code, including, but not limited to, Water Code sections 13268, 13304, 13340 and 13350, and/or Health and Safety Code sections

25299, and bring other applicable causes of action, and/or seek other relief such as an injunction under Water Code section 13304 and/or Health and Safety Code section 25299.01 as may be appropriate against the Dischargers.

2. Participate in any settlement discussions regarding the resolution of the violations at issue. The Los Angeles Water Board retains its authority to approve any proposed settlement of the alleged violations.

I, Renee Purdy, Executive Officer, do hereby certify that the foregoing is a full, true and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Los Angeles Region on **DATE**.

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Renee Purdy, Executive Officer