

1 **MEDINA SETO LAW GROUP**
ROWENA C. SETO, SBN 235103
2 E-Mail: Seto@MedinaSetoLaw.com
4 Embarcadero Center, 14th Floor
3 San Francisco, California 94111
Telephone: 415.851.9887
4 Facsimile: 415.851.9882

5 Attorneys for Petitioner
FRENCH CLEANERS

6 STATE WATER RESOURCES CONTROL BOARD

7 STATE OF CALIFORNIA

9 In the Matter of
10 FRENCH CLEANERS,
11 Petitioner,
12 For Review of Order No. R5-2024-0807 by
13 Central Valley Regional Water Quality
14 Control Board for Investigation and
15 Submission of Technical Reports

PETITION NO.

PETITION FOR REVIEW

(Wat. Code, § 13320; Cal. Code Regs., tit. 23,
§§ 2050 *et seq.*)

[Submitted Concurrently with Request for Stay
of Regional Board Order]

16
17 Pursuant to California Water Code section 13320 and Title 23 of the California Code of
18 Regulations sections 2050 *et seq.*, Petitioner FRENCH CLEANERS hereby respectfully petitions
19 the State Water Resources Control Board (“State Water Board”) for review of Water Code section
20 13267 Order No. R5-2024-0807 for Investigation and Submission of Technical Reports (the
21 “Order”) issued by the Central Valley Regional Water Quality Control Board (“Central Valley
22 Water Board”) on March 18, 2024.

23 As set forth below, the Order, without evidence and support, includes dry cleaners French
24 Cleaners as a “Suspected Discharger” subject to its mandates. This is notwithstanding that French
25 Cleaners is a fictitious business name: French Cleaners is a sole proprietorship by Frances Lee; in
26 other words, Ms. Lee is doing business as (“DBA”) French Cleaners. In 1996, Ms. Lee took
27 expensive, affirmative actions to ensure that PCE would never be discharged from the subject site
28 again. Indeed, the Order expressly states that Ms. Lee is *not* a Suspected Discharger, yet includes

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1 her DBA as a Suspected Discharger. In other words, the Central Valley Water Board is subjecting
2 Ms. Lee to the Order despite her having zero responsibility for the discharge of PCE described
3 therein. Punishing the individual who essentially did everything right and took proactive steps to
4 prevent any future discharge of PCE, is contrary to the spirit and intent of the applicable water
5 laws and environmental regulations as a whole. French Cleaners thus requests a hearing as
6 necessary in this matter and a Stay of the Order until this matter is resolved.

7 **I. PETITIONER**

8 The name, address, telephone number and e-mail of Petitioner is:

9 French Cleaners (aka Frances Lee DBA French Cleaners)
10 416 West Yosemite Avenue
11 Manteca, CA 95337
12 Telephone: (209) 823-5533
13 E-mail: franceslee57@gmail.com

14 Ms. Lee's niece, Lilly Tan, has been communicating with the Central Valley Water Board
15 on her behalf. Ms. Tan's email address is lillytan@gmail.com.

16 Petitioner should be contacted through its legal counsel:

17 Rowena C. Seto of Medina Seto Law Group
18 4 Embarcadero Center, 14th Floor
19 San Francisco, CA 94111
20 Telephone: (415) 851-9890
21 E-mail: Seto@MedinaSetoLaw.com

22 Please note that e-mail is the preferred method for written communications.

23 **II. THE ACTION BEING PETITIONED**

24 French Cleaners is petitioning for review of the Order, attached hereto and marked as
25 **Exhibit A**. Specifically, French Cleaners objects to its inclusion as one of the "Suspected
26 Dischargers" as termed in the Order. Pursuant to the Order, as a Suspected Discharger, French
27 Cleaners is to retain a professionally registered environmental consultant and within 60 days of the
28 Order, submit a Site History Report and a work plan. Then after the Central Valley Water Board
approves the work plan, French Cleaners must subsequently implement the work plan, complete
certain investigative actions and submit an investigation summary report. As expressed therein,
the projected cost of compliance with the Order is approximately \$40,000.

1 **III. DATE OF THE CENTRAL VALLEY WATER BOARD ACTION**

2 The Central Valley Water Board signed the Order on March 18, 2024. This Petition is
3 therefore timely under Water Code section 13320(a).

4 **IV. STATEMENT OF THE REASONS WHY CENTRAL VALLEY WATER BOARD’S**
5 **ACTION WAS INAPPROPRIATE AND IMPROPER¹**

6 **A. The Factual Background as Set Forth in the Order**

7 The pertinent facts and background are set forth in the Order as follows:

8 A dry-cleaning business, “French Cleaners,” has operated at the Site
9 since at least 1952. French Cleaners, and the owners and operators
10 thereof, are believed to have used a filter-based, “open” dry-cleaning
11 system potentially connected to sanitary drains in the Site’s
12 commercial building until approximately 1996. . . . As further
13 discussed below, a previous owner of French Cleaners has informed
14 Staff that the dry-cleaning equipment used prior to 1996 leaked
15 badly and that little care had been taken during past operations to
16 prevent spills of dry-cleaning fluids.

14 (Order at p. 3, ¶ 7.)

15 *Frances F. Lee currently owns and operates French Cleaners.*
16 *Frances Lee has owned and operated French Cleaners since 1996.*
17 *Frances Lee is not believed to have discharged dry-cleaning waste*
18 *during her operation of French Cleaners because, during her time*
19 *of operatorship, she is believed to have used a sealed solvent-based*
 system between 1996 to 2009 and, from 2009 onwards, a sealed
 hydrocarbon-based system. Therefore, Frances Lee is not subject
 to this Order.

20 (*Id.* at p. 4, ¶ 9 (emphasis added).)

21 [P]rior to the sale of French Cleaners to Frances Lee, Joann Thayer
22 replaced French Cleaner’s leaking solvent-based dry-cleaning
23 system with a sealed solvent-based system that did not connect to
any sewer or drain.

24 [A]ll former owners and operators of French Cleaners prior to 1990
25 are deceased. Therefore, they are not subject to this Order.

26 (*Id.* at p. 4, ¶¶ 9, 12.)

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28 ¹ This section also incorporates the requirement set forth in Cal. Code Regs, tit. 23, § 2050(a)(7).

1 The Order summarily and seemingly perfunctorily includes French Cleaners as a
2 “Suspected Discharger,” with zero explanation for why its current owner and operator – Ms. Lee –
3 should be subject to the Order despite the Central Valley Water Board’s express finding that Ms.
4 Lee *did not discharge* any dry-cleaning waste or PCE throughout her time DBA French Cleaners.

5 **B. French Cleaners Is Clearly Not A “Suspected Discharger” Under The Law**

6 The Porter-Cologne Water Quality Control Act provides for the nine State Regional Water
7 Quality Control Boards to protect water quality, as set forth and codified in the Water Code.
8 Water Code section 13304(a) provides:

9 A person who *has discharged* or *discharges waste* into the waters of
10 this state in violation of any waste discharge requirement or other
11 order or prohibition issued by a regional board or the state board, *or*
12 *who has caused or permitted, causes or permits, or threatens to*
13 *cause or permit any waste to be discharged* or deposited where it is,
14 or probably will be, discharged into the waters of the state and
15 creates, or threatens to create, a condition of pollution or nuisance,
16 shall, upon order of the regional board, clean up the waste or abate
17 the effects of the waste. . . .

18 (Wat. Code, § 13304(a) (emphasis added).)

19 The Central Valley Water Board issued its Order pursuant to Water Code section 13267:

20 (b)(1) In conducting an investigation specified in subdivision (a), the
21 regional board may require that *any person who has discharged,*
22 *discharges, or is suspected of having discharged* or discharging, or
23 who proposes to discharge waste within its region, or any citizen or
24 domiciliary, or political agency or entity of this state who has
25 discharged, discharges, or is suspected of having discharged or
26 discharging, or who proposes to discharge, waste outside of its
27 region that could affect the quality of waters within its region shall
28 furnish, under penalty of perjury, technical or monitoring program
reports which the regional board requires.

(*Id.* at § 13267(b)(1)) (emphasis added.)

As set forth in the Order, Ms. Lee has not discharged, nor is she suspected of having
discharged, any waste into the groundwater. Nonetheless, the Order holds her liable as the current
owner/sole proprietor of French Cleaners and provides no basis or explanation for this conclusion.
This is contrary to the express language of the law, as interpreted and confirmed by California
courts.

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1 For example, it is “not proper” to name as a discharger or suspected discharger subject to a
2 Water Board’s action a “former landowner who had no part in the activity which resulted in the
3 discharge of the waste and whose ownership interest did not cover the time during which that
4 activity was taking place.” (*United Artists Theatre Circuit, Inc. v. Calif. Regional Water Quality*
5 *Control Bd.* (2019) 42 Cal.App.5th 851, 885 (citing *In re Wenwest, Inc.* (Order No. WQ 92-13,
6 Oct. 22, 1992) 1992 Cal. Env. Lexis 19.) There, the California Court of Appeals recognized that
7 the Board rightly did not impose liability on a party “because it ‘never owned [the site] during the
8 time the tanks were actually leaking.’” (*United Artists Theatre Circuit, supra*, 42 Cal.App.5th at
9 885 (citing *In re Wenwest, supra*, 1992 Env. Lexis 19 at p. *11.)

10 Even applying strict liability principles would not result in French Cleaners being labeled
11 as a “Suspected Discharger” subject to the Order. Strict liability does not blindly impose liability
12 on any party, especially and including those with zero role in discharging waste into groundwater.
13 (See, e.g., *City of Modesto v. Dow Chemical Co.* (2018) 19 Cal.App.5th 130, 158 (noting that even
14 CERCLA’s strict liability standards “do not negate or supplant the requirement to prove
15 causation.”)

16 Further, it is clear from the Porter-Cologne Act’s legislative history that French Cleaners
17 should not be subject to the Order:

18 Indeed, the legislative history of the “causes or permits” language in
19 a different provision within the Porter-Cologne Act, Water Code
20 section 13350, supports our conclusion that ***the Legislature did not***
21 ***intend the act to impose liability on those with no ownership or***
22 ***control over the property or the discharge, and whose involvement***
23 ***in a discharge was remote and passive.*** The phrase “causes or
24 permits” was added to the statute in 1971, in an amendment
25 providing civil penalties for those who, among other things, caused
26 or permitted waste or oil to be discharged into the waters of the
27 state. (Stats. 1971, ch. 668, § 1, p. 1322; see Stats. 1969, ch. 482, §
28 18, p. 1070.)

Water Code section 13350 was again amended in 1980, to authorize
imposition of civil liabilities on “[a]ny person who, without regard
to intent or negligence, causes or permits” a discharge of hazardous
substances into the waters of the state. (Stats. 1980, ch. 877, § 3, p.
2754.) ***The statute also provided there would be no liability if the***
discharge were caused by events beyond the discharger’s control,
including any “circumstance or event which causes the discharge

1 despite the exercise of every reasonable precaution to prevent or
2 mitigate the discharge.” (*Id.* at p. 2755.)

3 (*City of Modesto Redevelopment Agency v. Superior Court (The Dow Chem. Co.)* (2004) 119
4 Cal.App.4th 28, 43.)

5 Here, French Cleaners’ involvement in the waste discharge was not even “remote and
6 passive.” (*Id.* at 31.) ***French Cleaners, in its current form as the owner/operator since 1996,***
7 ***had no involvement in the waste discharge,*** and even took affirmative actions to ensure that there
8 would be no further waste discharge under its watch. Holding French Cleaners liable as a
9 Suspected Discharger is fundamentally unfair and totally unsupported by – indeed, contrary to –
10 the Central Valley Water Board’s own findings as set forth in the Order. (See **Exhibit A.**)

11 **V. THE MANNER IN WHICH THE PETITIONER HAS BEEN AGGRIEVED**

12 A regional water board must have a “reasonable basis on which to name each responsible
13 party.” (*In the matter of the Petitioner Exxon Company, U.S.A.*, 1985 WL 20026 at *6.) A
14 reasonable basis is established when “credible and reasonable...evidence indicates the named
15 party has responsibility.” (*Id.*) This standard is consistent with California’s Water Code which
16 requires “active, affirmative or knowing conduct” in order to hold a party responsible under a
17 regional board’s order. (*Redevelopment Agency v. BNSF Ry.* (9th Cir. 2011) 643 F. 3d 668, 678
18 (explaining the standards set forth in Wat. Code, §13304(a)); see also *City of Modesto*
19 *Redevelopment Agency, supra*, 119 Cal.App.4th 28, 43.)

20 **A. Pursuant to California Law, A Sole Proprietorship Is Not A Legal Entity**
21 **Separate From Its Individual Owner And Thus Holding French Cleaners**
22 **Liable Under The Order Is Akin To Holding Frances Lee, The Individual,**
23 **Liable**

24 Frances Lee does business under a fictitious name, i.e., DBA French Cleaners. Under
25 well-established California law, repeatedly confirmed by California courts, there is ***no legal***
26 ***distinction between an individual/owner and the DBA/business.***

27 The designation of “DBA” or “doing business as” simply indicates
28 [that an individual] operates under a fictitious business name. (See
Bus. & Prof. Code, § 17900 et seq. [regulating fictitious business
names].) Use of a fictitious business name does not create a separate
legal entity. As the First District Court of Appeal recently noted,
“[t]he designation [DBA] means “doing business as” but is merely

1 descriptive of the person or corporation who does business under
2 some other name. *Doing business under another name does not*
3 *create an entity distinct from the person operating the business.*'
4 [Citation.] The business name is a fiction, and so too is any
implication that the business is a legal entity separate from its
owner."

5 (*Pinkerton's Inc. v. Superior Court* (49 Cal.App.4th 1342, 1348, citing *Providence Washington*
6 *Ins. Co. v. Valley Forge Ins. Co.* (1996) 42 Cal.App.4th 1194, 1200 [50 Cal. Rptr. 2d 192], italics
7 added, quoting *Duval v. Midwest Auto City, Inc.* (D.Neb. 1977) 425 F.Supp.1381, 1387, affd. (8th
8 Cir. 1978) 578 F.2d 721; see also <https://www.taxes.ca.gov/soleprobus.html> ("A sole
9 proprietorship is an unincorporated business that is owned by one person. . . . The business has no
10 existence apart from . . . the owner.")) "[T]here can be no doubt that the DBA and [the individual
11 owner] are not separate entities." (*Castillo-Padron v. Suavillo* (2021) 2021 Cal. Super. LEXIS
12 118922 *5-*6, citing *Century Surety Co. v. Polisso* (2006) 139 Cal.App.4th 922, 940 (additional
13 citations omitted); see also *Ball v. Steadfast-BLK* (2011) 196 Cal.App.4th 694, 701 (holding that
14 "a sole proprietorship is not a legal entity separate from its individual owner").)

15 Accordingly, there is no legal distinction between Frances Lee, the individual, and French
16 Cleaners, her DBA. ***Holding French Cleaners liable as a Suspected Discharger under the Order***
17 ***is thus the same exact thing as holding Ms. Lee individually liable – and Central Valley Water***
18 ***Board has expressly confirmed that Ms. Lee not only had no role in any of the waste discharge***
19 ***at the subject site, she took affirmative actions beginning in 1996 that prevented all future***
20 ***discharges.***

21 Therefore, no reasonable basis exists to hold Ms. Lee's DBA French Cleaners responsible
22 under the Order. Ms. Lee DBA French Cleaners has been aggrieved by the Central Valley Water
23 Board's action because she will be unjustly subject to the Order when she had no role in the
24 discharge. She is nearing the age of retirement, and she would be forced to suffer significant costs
25 and serious economic harm, including bearing the costs that should rightly and fairly be borne by
26 the actual dischargers (as they are so identified and named in the Order).

27 **VI. THE PETITIONER'S REQUESTED STATE WATER BOARD ACTION**

28 French Cleaners respectfully requests that the State Water Board find the Central Valley

1 Water Board’s naming of Ms. Lee’s DBA French Cleaners as a “Suspected Discharger” in the
2 Order unsupported by the evidence and the law, or otherwise inappropriate or improper. Ms. Lee
3 DBA French Cleaners further respectfully requests that the State Water Board require the Central
4 Valley Water Board to rescind the Order as it applies to French Cleaners or amend the Order to
5 remove French Cleaners as a “Suspected Discharger” subject to its mandates.

6 **VII. STATEMENT OF POINTS AND AUTHORITIES IN SUPPORT OF**
7 **LEGAL ISSUES RAISED IN THIS PETITION**

8 The required statement of points and authorities per Code of Regulations, Title 23, section
9 2050(a)(7) is included in Section IV, above, of this Petition.

10 **VIII. STATEMENT REGARDING SERVICE OF THE PETITION**
11 **ON THE REGIONAL WATER BOARD**

12 A copy of this Petition has been served via email to Patrick Pulupa, Executive Officer of
13 the Central Valley Water Board, and to Michael DeSmet, Engineering Geologist of the Central
14 Valley Water Board. (See accompanying Proof of Service.)

15 **IX. STATEMENT REGARDING ISSUES PRESENTED**
16 **TO THE REGIONAL WATER BOARD**

17 Petitioner, through her/its counsel, raised these issues in emails to the Central Valley Water
18 Board on September 2, 2022 and October 7, 2022 and requested a meeting to discuss these
19 matters. After initial replies by the Central Valley Water Board on October 10 and 11, 2022, the
20 Petitioner did not hear from the Board any further regarding this issue. (See attached **Exhibit B.**)

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X. CONCLUSION

The law is clear that there is no legal distinction between Frances Lee the individual and her DBA French Cleaners. Importantly, *Ms. Lee DBA French Cleaners undertook and completed affirmative, expensive actions that prevented any further discharge of waste at the subject site.* To hold her, through her fictitious business name, subject to the Order despite her having no role in any discharge at the site, would be fundamentally and breathtakingly unfair, and contrary to the spirit and express intent of California’s water laws. Ms. Lee/French Cleaners respectfully requests grant the relief as set forth in this Petition.

DATED: April 16, 2024

Respectfully submitted,

MEDINA SETO LAW GROUP

By:

Rowena C. Seto
Attorneys for Petitioner
FRENCH CLEANERS
(AKA Frances Lee DBA French Cleaners)

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GROUP

Exhibit A



Central Valley Regional Water Quality Control Board

18 March 2024

ADDRESSEES: SEE ATTACHMENT 1

WATER CODE SECTION 13267 ORDER NO. R5-2024-0807 FOR INVESTIGATION AND SUBMISSION OF TECHNICAL REPORTS

**FRENCH CLEANERS,
416 WEST YOSEMITE AVENUE, MANTECA, SAN JOAQUIN COUNTY
GEOTRACKER SITE ID NO. T1000005026**

You are legally required to respond to this Order. Please read it carefully.

This Order R5-2024-0807 (Order) is issued to Patrick E. and Betty J. Farrell, French Cleaners, Joann G. Thayer, and James R. and Darline A. Clevenger (collectively, Suspected Dischargers) pursuant to Water Code section 13267, which authorizes the Central Valley Regional Water Quality Control Board (Central Valley Water Board) to require submission of technical reports associated with the investigation of the unauthorized discharge(s) of dry-cleaning solvent to soil and groundwater beneath the real property located at 416 West Yosemite Avenue, Manteca, San Joaquin County, Assessor's Parcel Number 219-312-030-000 (Site). The Site's location is depicted on the map provided as Attachment 2 to this Order.

As further described below, the chlorinated volatile organic compound (CVOC) tetrachloroethene (PCE) has been detected in Site soil vapor samples, offsite groundwater samples, and four City of Manteca water supply wells (Wells 01, 02, 03, and 05) located over 1,250 feet from the Site. Two additional City of Manteca water supply wells (Wells No. 21 and No. 22) are currently in operation within 3,000 feet of the Site and may be threatened by PCE discharged at, and continuing to discharge from, the Site. The Site is suspected to be the source of the PCE detected in Site soil and offsite wells because PCE has historically been used as a dry-cleaning solvent, historic dry-cleaners are commonly associated with discharges of PCE that impact, or threaten to impact water quality, and there are currently no other known or suspected sources of PCE within 2,000 feet of the Site or within the vicinity of Wells No. 21 and No. 22.

PCE is a toxic chemical, which, even in small quantities, can harm human health and safety via consumption or use of untreated groundwater, direct exposure to contaminated soil, and/or through off-gassing (i.e., vapor intrusion) into confined indoor spaces, such as the Site's commercial building and other nearby commercial and residential buildings.

MARK BRADFORD, CHAIR | PATRICK PULUPA, ESQ., EXECUTIVE OFFICER

The Suspected Dischargers named in this Order are suspected of being responsible for causing or permitting the ongoing discharge of PCE at and surrounding the Site. Therefore, this Order requires the Suspected Dischargers to:

1. Submit a Site History Report and a work plan, for Central Valley Water Board staff (Staff) review and concurrence, that proposes a scope of work to investigate CVOCs in indoor air within the Site's commercial building and in soil gas at and around the Site.
2. Following Staff's concurrence with the work plan, complete the investigative actions proposed in the work plan and submit an investigation summary report.

FINDINGS

Summary of Prior Environmental Investigations

1. In August 2002, PCE was detected in groundwater samples collected in relation to an Underground Storage Tank (UST) release investigation at Rainwater Car Wash (Rainwater), which is located at 420 West Yosemite Avenue, immediately east of the Site. (GeoTracker Case No. T0607700663.) In April 2003, San Joaquin County Environmental Health Department personnel notified the Central Valley Water Board that PCE had been detected up to 2,700 micrograms per liter ($\mu\text{g/L}$) in groundwater during the investigation at Rainwater and appeared to be coming from an offsite source. For reference, the Maximum Contaminant Level (MCL) for PCE is 5 $\mu\text{g/L}$ (Cal. Code Regs., tit. 22, § 64444). PCE and other CVOCs were regularly detected in Rainwater groundwater samples until groundwater sampling and reporting at that property stalled, around April 2020.
2. In July 1989 PCE was detected up to 5.49 $\mu\text{g/L}$ in groundwater samples collected from City of Manteca water supply wells 1, 2, 3, and 5. Wells 1, 2, and 3 were located approximately 1,800 feet northeast of the Site but have been destroyed. Well 5 is located approximately 1,000 feet south of the Site and is currently inactive. PCE was last detected in Well 5 at 1.3 $\mu\text{g/L}$ in August 2004.
3. In November 2003, Staff requested that Frances Lee, who operates the French Cleaners dry-cleaning business at the Site, conduct a soil vapor survey at and around the Site. In July 2004, Advanced GeoEnvironmental, Inc., advanced seven soil borings in five locations and collected five soil vapor samples. PCE was detected in three of the five soil vapor samples at concentrations up to 4.9 $\mu\text{g/L}$ (equivalent to 4,900 micrograms per cubic meter [$\mu\text{g/m}^3$]), which significantly exceeds the San Francisco Bay Regional Water Quality Control Board's Subslab/Soil Gas Vapor Intrusion Human Health Commercial/Industrial Cancer Risk Screening Level of 67 $\mu\text{g/m}^3$. An exceedance of a screening level indicates that additional evaluation is warranted.

4. In April and July 2005, E₂C Remediation, Inc., submitted work plans for the collection of soil and groundwater samples. These work plans were not implemented.
5. Stantec Consulting Services, Inc., on behalf of Frances Lee, submitted a 1 July 2019 *Site Assessment Work Plan* (July 2019 Work Plan) proposing nine tasks to further characterize the extent of impacts at the Site and design an effective remedial strategy, if needed. Tasks 1 through 5 of the Work Plan proposed the development of a Site History Report and completion of a passive soil gas survey. After the passive soil gas survey, Stantec proposed collecting sub-slab, indoor air, or soil gas samples. In a 29 August 2019 letter, Staff conditionally concurred with the Work Plan, requesting submission of an additional work plan for the proposed soil gas survey and submission of soil gas survey results prior to collection of soil gas and/or indoor air samples. The requested soil gas sampling work plan has not been submitted and, to Staff's knowledge, such sampling has not been completed.

Site Ownership and Operations

6. San Joaquin County Assessor's records indicate that Betty J. Farrell has owned the Site since 1981. A 11 May 2018 letter from Paladin Law Group, LLP (Paladin), on behalf of Patrick E. and Betty J. Farrell (collectively, the Farrells), to the Central Valley Water Board specifies that Betty Farrell inherited the property but does not specify who the property was inherited from. Assessor's records indicate that Patrick Farrell assumed some portion of ownership of the Site in 1992. Additionally, Assessor's records list the current owners of the Site as the Farrells.
7. A dry-cleaning business, "French Cleaners," has operated at the Site since at least 1952. French Cleaners, and the owners and operators thereof, are believed to have used a filter-based, "open" dry-cleaning system potentially connected to sanitary drains in the Site's commercial building until approximately 1996. Based on Staff knowledge and experience with numerous PCE discharges from former dry-cleaners, the Central Valley Water Board is aware that these types of dry-cleaning systems are commonly associated with PCE discharges: PCE is often discharged to the environment via leaks or spills from machinery, storage containers, and/or sanitary sewers, and as a result of resupply operations and solvent and/or filter storage or disposal practices. As further discussed below, a previous owner of French Cleaners has informed Staff that the dry-cleaning equipment used prior to 1996 leaked badly and that little care had been taken during past operations to prevent spills of dry-cleaning fluids.
8. Based on available public records, the Farrells do not and have not had any ownership or operating control of French Cleaners. However, the Farrells have leased the Site property to French Cleaners since 1981. It is not clear who

leased the property to French Cleaners during its period of operation from 1952 to 1981.

9. Frances F. Lee currently owns and operates French Cleaners. Frances Lee has owned and operated French Cleaners since 1996. Frances Lee is not believed to have discharged dry-cleaning waste during her operation of French Cleaners because, during her time of operatorship, she is believed to have used a sealed solvent-based system between 1996 to 2009 and, from 2009 onwards, a sealed hydrocarbon-based system. Therefore, Frances Lee is not subject to this Order.
10. From 1993 to 1996, Joann G. Thayer owned and operated French Cleaners. Joann Thayer sold French Cleaners to Frances Lee in 1996. In a 12 February 2019 letter from Medina Seto Law Group (Medina), on behalf of Frances Lee, to Paladin, Medina documented that prior to the sale of French Cleaners to Frances Lee, Joann Thayer replaced French Cleaner's leaking solvent-based dry-cleaning system with a sealed solvent-based system that did not connect to any sewer or drain. Medina also reported that Joann Thayer had informed Medina that previous operators of French Cleaners used dry-cleaning equipment that appeared to have leaked badly and with little care being taken to prevent spills. Joann Thayer is suspected of having used the former filter-based, "open" dry-cleaning system. According to a 15 January 2019 telephone interview between Staff and Joann Thayer, Joann reported using the machines purchased from the Clevenger's for three to six months prior to replacing them. Therefore, Joann Thayer is suspected of potentially discharging dry-cleaning waste to soil and groundwater.
11. From 1990 to 1993, James R. Clevenger and Darline A. Clevenger (collectively, the Clevengers) owned and operated French Cleaners. The Clevengers sold French Cleaners to Joann Thayer in 1993.
12. Based on available public records, all former owners and operators of French Cleaners prior to 1990 are deceased. Therefore, they are not subject to this Order.

LEGAL AUTHORITY

13. Water Code section 13267, subdivision (a) provides that "[a] regional board... in connection with any action relating to any plan or requirement authorized by [Water Code division 7] may investigate the quality of any waters of the state within its region."
14. Water Code section 13267, subdivision (b)(1) further provides that,

In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, . . . waste within

its region . . . shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports and shall identify the evidence that supports requiring that person to provide the reports.

15. The State Water Resources Control Board (State Water Board) has held for more than 40 years that,

[D]ischarge refers to any movement of waste from soils to groundwater and from contaminated to uncontaminated groundwater and continues to occur if the waste continues to move through the soils and groundwater and poses a threat of further degradation to groundwater. An actionable discharge, therefore, encompasses not simply the initial episode of contamination, but rather includes the time during which the waste uncontrollably flows or migrates from its source, through the soil, and into and within the groundwater.

(Tesoro Refining & Marketing Company LLC v. Los Angeles Regional Water Quality Control Board, 42 Cal.App.5th 453, 457 (2019).) Thus, the term “discharge” must be read to include not only the initial occurrence of a discharge, but also the passive migration of the contamination into the soil.

16. The presence of PCE in soil gas and groundwater at and near the Site indicates that PCE, a “waste” (Wat. Code, § 13050, subd. (d)), has been discharged and is impacting, and threatening to impact, the quality of the water of the Central Valley region. Extensive staff knowledge and experience with PCE discharges supports a suspicion that the PCE present at and near the Site will continue to migrate from contaminated media (i.e., soil, soil gas, groundwater) into and through uncontaminated media, constituting an ongoing discharge of PCE. Based on the facts described in the preceding Findings, French Cleaners’ past operations are suspected to be the source of the PCE discharge(s).
17. The Suspected Dischargers subject to this Order are known and/or suspected to have discharged waste at and from the Site. As owners of the Site, the Farrells had, and continue to have, the ability to control conditions therein, including past and ongoing discharges of PCE at and from their property. As owners and operators of a dry-cleaning operation that used an “open” dry-cleaning system, French Cleaners, Joann Thayer, and the Clevengers are suspected to have caused and/or permitted discharge(s) of PCE at and from the Site. Therefore, these Suspected Dischargers are required to perform the investigation and reporting required by this Order.

18. The Central Valley Water Board's Water Quality Control Plan for the Sacramento and San Joaquin River Basins (Basin Plan) designates beneficial uses for groundwater within that region. The Basin Plan designates the groundwater beneath the Site for municipal and domestic supply (MUN) and provides that the groundwater shall not contain chemical constituents that adversely affect beneficial uses, shall not contain taste- or odor-producing substances in concentrations that cause nuisance or adversely affect beneficial uses, and shall be maintained free of toxic substances. As described in an earlier Finding, the MCL for PCE in water designated MUN as 5 µg/L. The presence of PCE in groundwater in excess of the MCL constitutes a condition of pollution (Wat. Code, § 13050, subd. (l)) because the beneficial uses of that water are impaired. Additionally, the presence of PCE in groundwater, soil, and soil vapor at and near the Site poses a threat to human health and safety due to the risk of exposure from direct contact with soil and/or vapor intrusion into buildings overlying the impacted area. Therefore, pursuant to Water Code section 13267, this Order requires the Dischargers to investigate and submit technical reports concerning the scope and extent of soil, soil vapor, and groundwater pollution at, beneath, and near the Site.
19. The investigations and reporting required under this Order are reasonably necessary to begin to ascertain the magnitude and extent of soil, soil vapor, and groundwater contamination at the Site, to assess impacts and threatened impacts to water quality, and to determine the need for additional investigation, cleanup, abatement, and/or remediation to mitigate potential current risks to human health via vapor intrusion to indoor air, direct contact with soil, and ingestion of impacted groundwater. Staff anticipates that the cost of compliance with this Order will be approximately \$40,000. The burden, including all associated costs of compliance with this Order, is reasonable in relation to the need for the required reports and the benefits to be obtained thereby.
20. In issuing this Order, the Executive Officer is acting pursuant to the authority delegated under Water Code section 13223.

REQUIRED ACTIONS

IT IS HEREBY ORDERED that, pursuant to Water Code section 13267, the Suspected Dischargers shall submit technical reports in accordance with the following provisions:

1. **Within 60 days of the date of this Order**, retain the services of a professionally registered environmental consultant and submit:

- a. A Site History Report (SHR), as proposed in the July 2019 Work Plan¹.
- b. A work plan for a passive soil gas survey, as proposed in the July 2019 Work Plan, and for sub-slab and indoor air sampling, including proposed locations, methods, and procedures.

Upon receipt, Staff will review for concurrence with the submissions. If Staff determine that any item is incomplete or otherwise unsatisfactory, the Suspected Dischargers shall promptly correct any such deficiency(s) and resubmit the corrected item(s). Failure to do so shall constitute a violation of this Order.

2. **Within 90 days of Staff's concurrence with the work plan**, implement the work plan, complete the proposed investigation actions, and **submit an investigation summary report** that includes, but is not limited to:
 - a. Map(s) of sample locations.
 - b. Descriptions of sampling methods and procedures.
 - c. Evaluation and discussion of sample analytical results, including a vapor intrusion Human Health Risk Assessment of the Site and surrounding properties.
 - d. Conclusions based on the results of sample and risk analyses.
 - e. Recommendations for additional Site investigation(s) and/or remediation of soil, soil vapor, and/or groundwater based on the conclusions derived from sample and risk assessment data.

REPORTING REQUIREMENTS

The following provisions apply to all submissions required by this Order:

1. All documents shall be submitted electronically to the State Water Board's GeoTracker database at <https://geotracker.waterboards.ca.gov>, in accordance with California Code of Regulations, title 23, division 3, chapter 30, and in accordance with all GeoTracker standards and procedures, as specified on the State Water Board's website at https://www.waterboards.ca.gov/ust/electronic_submittal/.
2. All documents shall be prepared by, or under the supervision of, a registered professional engineer or geologist and must be signed and stamped by the registered professional (see Bus. & Prof. Code, §§ 6735, 7832, and 7835.1).

¹ Stantec, Site Assessment Work Plan, 1 July 2019, https://geotracker.waterboards.ca.gov/view_documents?global_id=T10000005026&document_id=5979287

3. All documents submitted to the Central Valley Water Board shall include the following statement and be signed by the Suspected Discharger(s) or its agent:

I certify under penalty of law that this document, including all attachments and supplemental information, were prepared under my direction and supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated 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.

ENFORCEMENT

Failure to comply with the provisions of this Order in conformity with the schedule set forth above is a misdemeanor and may result in the assessment of administrative civil liabilities (i.e., fines) of up to \$5,000 per violation, per day, depending on the violation, pursuant to Water Code section 13268. The Central Valley Water Board further reserves the right to take any additional enforcement actions authorized by law.

ADMINISTRATIVE REVIEW

Any person aggrieved by requirements set forth in this Order issued by the Central Valley Water Board may petition the State Water Board to review the requirements set forth in this Order in accordance with Water Code section 13320 and California Code of Regulations, title 23, section 2050 et seq. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, in which case the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the laws and regulations applicable to filing petitions will be provided upon request or may be found on the Internet at:

https://www.waterboards.ca.gov/public_notices/petitions/water_quality.

If you have any questions about this Order, please contact Michael DeSmet at (916) 464-4830, or at michael.desmet@waterboards.ca.gov.

This Order is effective upon the date of signature.

For PATRICK PULUPA
Executive Officer

Attachments:

1. Addressee List
2. Site Location Map

cc: Lilly Tan, on behalf of Frances Lee (email)
Chani Hutto, State Water Resources Control Board, Division of Financial Assistance (email)

Attachment 1 – Addressee List

Patrick E. and Betty J Farrell
542 Glen Alto Drive
Los Altos, CA 94024

CERTIFIED MAIL: 7017-1070-0000-8876-6978

French Cleaners
416 West Yosemite Avenue
Manteca, CA 95337

CERTIFIED MAIL: 7017-1070-0000-8876-6985

Joann G. Thayer
6125 Yucca Drive
Douglasville, GA 30134

CERTIFIED MAIL: 7017-1070-0000-8876-6961

James R. and Darline A. Clevenger
10401 Lions Path
Lone Tree, CO 80124

CERTIFIED MAIL: 7017-1070-0000-8876-6954

James R. and Darline A. Clevenger
P.O. BOX 5366
Stockton, CA 95205

CERTIFIED MAIL: 7017-1070-0000-8876-6947

Attachment 2: Site Location Map

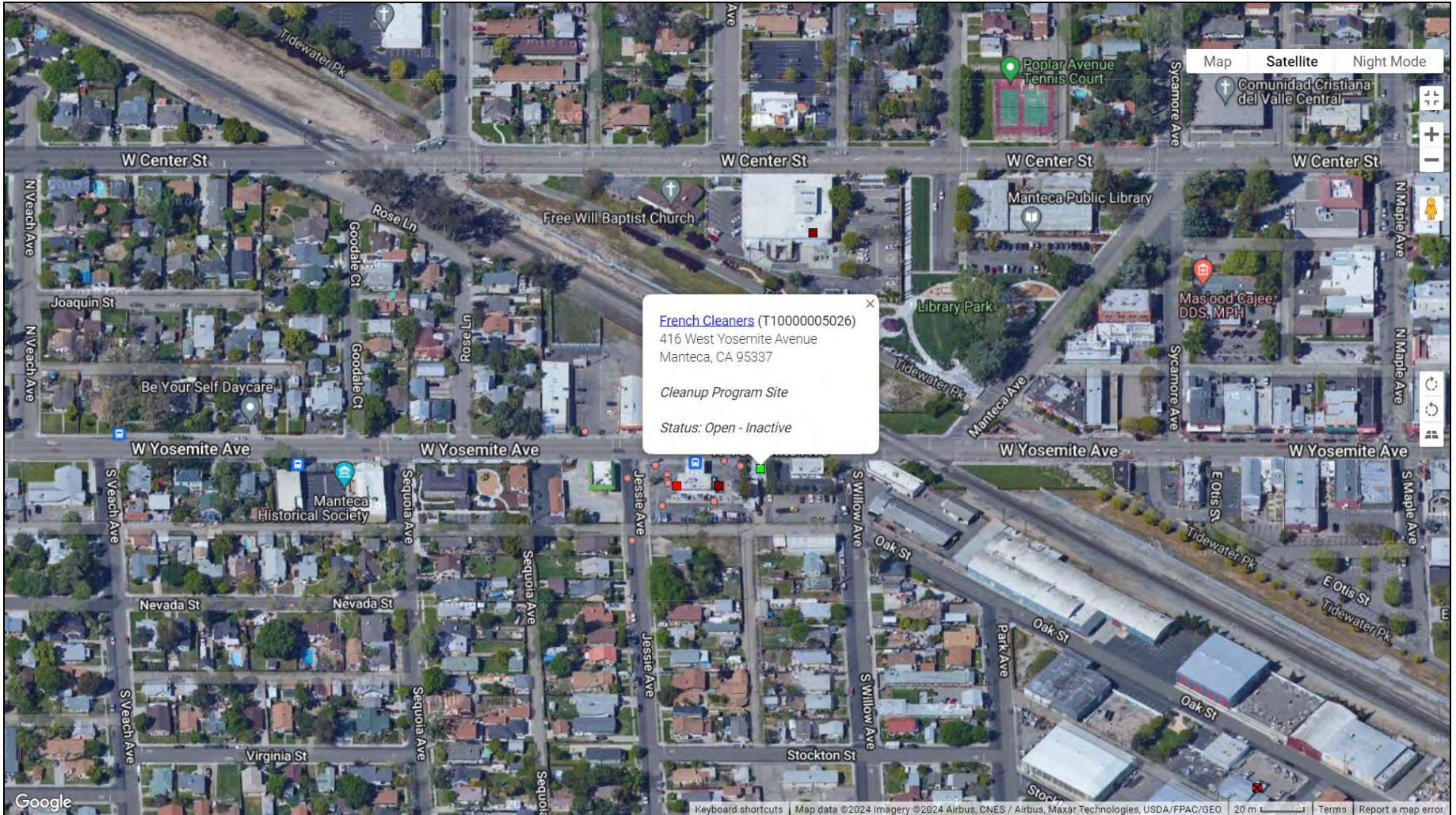


Exhibit B

Rowena Seto

From: DeSmet, Michael@Waterboards <Michael.DeSmet@Waterboards.ca.gov>
Sent: Tuesday, October 11, 2022 1:41 PM
To: Moskal, Christopher B.@Waterboards; Rowena Seto
Cc: Kevin Cifarelli; Lilly Tan; franceslee57@gmail.com
Subject: RE: French Cleaners (GeoTracker ID #T10000005026) - 416 West Yosemite Ave, Manteca
Attachments: 1996.03.25 - French Cleaners Sales Agreement.pdf

Chris,

My apologies, the sales agreement between Ms. Lee and the previous owner was already provided. It is attached.

Regards,

Michael DeSmet, PG
Engineering Geologist - UST Enforcement Unit
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670-6114
Office: 916.464.4830
Michael.DeSmet@waterboards.ca.gov



From: Moskal, Christopher B.@Waterboards <Christopher.Moskal@Waterboards.ca.gov>
Sent: Tuesday, October 11, 2022 10:34 AM
To: DeSmet, Michael@Waterboards <Michael.DeSmet@Waterboards.ca.gov>; Rowena Seto <seto@medinasetolaw.com>
Cc: Kevin Cifarelli <cifarelli@medinasetolaw.com>; Lilly Tan <lillytan@gmail.com>; franceslee57@gmail.com
Subject: Re: French Cleaners (GeoTracker ID #T10000005026) - 416 West Yosemite Ave, Manteca

Rowena,

Good morning. I serve as counsel to the Central Valley Water Board.

As I understand this matter, your client, Ms. Lee, purchased a pre-existing business, French Cleaners, in 1996. Prior to your client's ownership of the business, French Cleaners' operations are suspected to have caused a discharge(s) of PCE, which is impacting or threatening to impact groundwater at and beneath the business property. The Central Valley Water Board does not currently believe that your client was personally responsible for causing or permitting the discharge(s) of PCE; however, as current owner of French Cleaners,

your client is the party responsible for managing her business's assets and addressing her business's outstanding environmental liabilities, even if those liabilities arose prior to the time she purchased the business. The extent of your client's *personal* liability for the liabilities of her business depend upon the business form (i.e., sole proprietorship, partnership, limited liability company, corporation, etc.), which is currently unknown to Board staff.

It would be helpful if you could submit a copy of your client's purchase agreement for the business, as well as any other documentation concerning the ownership history of French Cleaners.

Please let me know if you have questions or would like to discuss further. I may have some time this week for a call, but it may be more expedient to exchange emails.

Best,

Chris Moskal
Attorney
Office of Chief Counsel
State Water Resources Control Board

From: DeSmet, Michael@Waterboards <Michael.DeSmet@Waterboards.ca.gov>
Sent: Monday, October 10, 2022 1:42 PM
To: Rowena Seto <seto@medinasetolaw.com>; Moskal, Christopher B.@Waterboards <Christopher.Moskal@Waterboards.ca.gov>
Cc: Kevin Cifarelli <cifarelli@medinasetolaw.com>; Lilly Tan <lillytan@gmail.com>; franceslee57@gmail.com <franceslee57@gmail.com>
Subject: RE: French Cleaners (GeoTracker ID #T10000005026) - 416 West Yosemite Ave, Manteca

Hello Rowena,

Thank you for your response below. I have included Chris Moskal, counsel for the Water Boards, on this email. After Chris responds we can set up a meeting, if needed. Thank you for your continued attention to this case.

Regards,

Michael DeSmet, PG
Engineering Geologist - UST Enforcement Unit
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670-6114
Office: 916.464.4830
Michael.DeSmet@waterboards.ca.gov



From: Rowena Seto <seto@medinasetolaw.com>
Sent: Friday, October 7, 2022 8:12 AM
To: DeSmet, Michael@Waterboards <Michael.DeSmet@Waterboards.ca.gov>
Cc: Kevin Cifarelli <cifarelli@medinasetolaw.com>; Lilly Tan <lillytan@gmail.com>; franceslee57@gmail.com
Subject: RE: French Cleaners (GeoTracker ID #T10000005026) - 416 West Yosemite Ave, Manteca

EXTERNAL:

Dear Michael,

I hope this email finds you well. I'm following up on my email below; I see now that you were inadvertently left off as a recipient.

We would like to meet with you and the Water Board's counsel as set forth below. I look forward to hearing from you.

Best,
Rowena

From: Rowena Seto
Sent: Friday, September 2, 2022 12:42 AM
To: Lilly Tan <lillytan@gmail.com>; franceslee57@gmail.com
Cc: Timothy Kirk <kirk@medinasetolaw.com>; Kevin Cifarelli <cifarelli@medinasetolaw.com>
Subject: RE: French Cleaners (GeoTracker ID #T10000005026) - 416 West Yosemite Ave, Manteca

Dear Michael,

Thank you for your email. We are pleased with and agree with your conclusion that Ms. Lee is not personally responsible for the discharge of PCE. However, I'm puzzled by the contradictory position that she is somehow still responsible as French Cleaners's owner. It has been confirmed that no PCE has been discharged throughout the duration of Ms. Lee's ownership of French Cleaners, as she used a closed system and accounted for over 97% of the PCE used. Respectfully, even from a strict liability standpoint, this does not make sense. Under strict liability principles, a party can be held responsible for the discharge of PCE in its possession, even if it operated under best practices, had stringent safeguards in place and did not intend to discharge PCE (so it did not have any intent to improperly discharge or dispose of waste). But here, the discharge of PCE ended with or before Ms. Lee's ownership of French Cleaners.

Of course, I'm happy to discuss this with you and with the Water Board's counsel. I'd like to take you up on your gracious offer to meet, preferably via Zoom. Please let me know your and your counsel's availability. In the meantime, have a nice holiday weekend.

Best regards,
Rowena

From: DeSmet, Michael@Waterboards <Michael.DeSmet@Waterboards.ca.gov>
Sent: Tuesday, August 30, 2022 1:14 PM
To: Rowena Seto <seto@medinasetolaw.com>
Cc: Lilly Tan <lillytan@gmail.com>; franceslee57@gmail.com; Timothy Kirk <kirk@medinasetolaw.com>
Subject: RE: French Cleaners (GeoTracker ID #T10000005026) - 416 West Yosemite Ave, Manteca

Hello Rowena,

I apologize for my delay in getting back to you. Thank you for providing the purchase agreement!

Based on the information you provided, and after speaking with Water Board's counsel, Ms. Lee is not personally responsible for the discharge of PCE and I will not name her personally as a potentially responsible party. I believe it has been shown that by using a closed system for the entirety of PCE use and by accounting for over 97% of the PCE used, Ms. Lee did not discharge PCE. However, Ms. Lee has a responsibility for the French Cleaner's business entity as the business point of contact and is required to address French Cleaners liability. French Cleaners (as the business entity) is still a responsible discharger.

Ms. Lee can use the purchase contract with the previous owner to recover costs for that liability, but the purchase agreement does not relieve Ms. Lee of her responsibility for French Cleaners as the owner.

I hope this makes sense. If you would like further clarification, I am happy to set up a meeting for the group to discuss further with counsel for the Water Board. Please let me know if there are any outstanding questions or issues. I appreciate everyone's attention to the case.

Regards,

Michael DeSmet, PG
Engineering Geologist - UST Enforcement Unit
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670-6114
Office: 916.464.4830
Michael.DeSmet@waterboards.ca.gov



From: Rowena Seto <seto@medinasetolaw.com>
Sent: Wednesday, August 17, 2022 2:45 PM
To: DeSmet, Michael@Waterboards <Michael.DeSmet@Waterboards.ca.gov>
Cc: Lilly Tan <lillytan@gmail.com>; franceslee57@gmail.com; Timothy Kirk <kirk@medinasetolaw.com>
Subject: RE: French Cleaners (GeoTracker ID #T10000005026) - 416 West Yosemite Ave, Manteca

Dear Michael,

Thank you for the reminder and I apologize for the delay. This has been on my to-do list but I've been slammed with litigation deadlines.

Attached please find the purchase agreement. Of note is the indemnity provision at Paragraph 7:

7. Except as otherwise expressly provided in this contract, Seller shall indemnify and hold Buyer and the property of Buyer, including said business and the assets of said business, free and harmless from any and all claims, losses, damages, injuries, and liabilities arising from or on account of Seller's operation of said business or Seller's ownership of any assets of said business that are subject to this contract or Seller's ownership or occupation of said business.

In light of the indemnification provision, and given the fact that Ms. Lee has always used a sealed system (put into place by the seller/her predecessor Joanna Thayer) and the SafetyKleen records confirm that all the PCE was accounted for and did not contaminate the surrounding property, I trust that Ms. Lee will not be deemed responsible by the Water Board. If you or the Board have concluded differently, I would appreciate the opportunity to discuss this position with you.

Sincerely,
Rowena



Rowena C. Seto, Esq.
Medina Seto Law Group
4 Embarcadero Center, Suite 1400
San Francisco, CA 94111
Main: (415) 851-9887
Direct: (415) 851-9890
Facsimile: (415) 851-9882
Toll Free: (877) 217-3810
www.MedinaSetoLaw.com

Please note that all members of our law firm are working from home due to the ongoing COVID-19 pandemic. Accordingly, please send all documents by e-mail or facsimile until further notice. All documents sent to our office by mail, UPS, FedEx or messenger will encounter significant delays in processing and distribution to its intended recipient.

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From: DeSmet, Michael@Waterboards <Michael.DeSmet@Waterboards.ca.gov>
Sent: Wednesday, August 17, 2022 4:46 PM
To: Rowena Seto <seto@medinasetolaw.com>
Cc: Lilly Tan <lillytan@gmail.com>; franceslee57@gmail.com; Timothy Kirk <kirk@medinasetolaw.com>
Subject: RE: French Cleaners (GeoTracker ID #T10000005026) - 416 West Yosemite Ave, Manteca

Hello Rowena,

I am checking in on the business purchase agreement. If you can send that to me before the end of the week it would be appreciated. I am planning to send the Responsible Party memo I have drafted to Central Valley and State Water Board management review this Friday. Thank you for your continued attention to this case.

Regards,

Michael DeSmet, PG
Engineering Geologist - UST Enforcement Unit
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670-6114
Office: 916.464.4830
Michael.DeSmet@waterboards.ca.gov



From: Rowena Seto <seto@medinasetolaw.com>
Sent: Friday, August 5, 2022 2:10 PM
To: DeSmet, Michael@Waterboards <Michael.DeSmet@Waterboards.ca.gov>
Cc: Lilly Tan <lillytan@gmail.com>; franceslee57@gmail.com; Timothy Kirk <kirk@medinasetolaw.com>
Subject: RE: French Cleaners (GeoTracker ID #T10000005026) - 416 West Yosemite Ave, Manteca

EXTERNAL:

Hello Michael,

It's my pleasure, and I'm glad you didn't run into any issues downloading the materials.

We have located the business purchase agreement, and I'll be forwarding that to you shortly. In the meantime, have a great weekend.

Best,
Rowena

From: DeSmet, Michael@Waterboards <Michael.DeSmet@Waterboards.ca.gov>
Sent: Friday, August 5, 2022 4:57 PM
To: Rowena Seto <seto@medinasetolaw.com>
Cc: Lilly Tan <lillytan@gmail.com>; franceslee57@gmail.com; Timothy Kirk <kirk@medinasetolaw.com>; Michelle McKinney <McKinney@medinasetolaw.com>
Subject: RE: French Cleaners (GeoTracker ID #T10000005026) - 416 West Yosemite Ave, Manteca

Hello Rowena,

Thank you very much. I haven't had a chance to look over things in depth yet, but I will get back to you with any questions. I do appreciate the effort it took to collect these and get them scanned. I was able to access the DropBox folder and download all files in the folder without issue.

Regards,

Michael DeSmet, PG
Engineering Geologist - UST Enforcement Unit
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670-6114
Office: 916.464.4830
Michael.DeSmet@waterboards.ca.gov



From: Rowena Seto <seto@medinasetolaw.com>
Sent: Friday, August 5, 2022 12:20 PM
To: DeSmet, Michael@Waterboards <Michael.DeSmet@Waterboards.ca.gov>
Cc: Lilly Tan <lillytan@gmail.com>; franceslee57@gmail.com; Timothy Kirk <kirk@medinasetolaw.com>; Michelle McKinney <McKinney@medinasetolaw.com>
Subject: RE: French Cleaners (GeoTracker ID #T10000005026) - 416 West Yosemite Ave, Manteca

EXTERNAL:

Hi Michael,

Thank you for your patience. We have located the Uniform Hazardous Waste Manifests from 1996 – 2017 and had them scanned and OCR'ed. You can find them at this DropBox folder:

https://www.dropbox.com/sh/tikcj3pdhkjhrhc/AAB-M59Tkmcn_5b2-rC-gCqa?dl=0

You should be able to download the entire folder. If you run into any problems, please let me and my assistant Michelle know (copied here, McKinney@MedinaSetoLaw.com).

I also located the attached Spreadsheet detailing the volume of product purchased versus the volume disposed, per the manifests. According to our file notes, this shows that over 97.2% of the product purchased was properly disposed as waste, with the remaining lost to evaporation and remaining on clothing.

Best,
Rowena

*****Please note our address has changed. Our new address is below.*****



Rowena C. Seto, Esq.
Medina Seto Law Group
4 Embarcadero Center, Suite 1400
San Francisco, CA 94111
Main: (415) 851-9887
Direct: (415) 851-9890
Facsimile: (415) 851-9882
Toll Free: (877) 217-3810
www.MedinaSetoLaw.com

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From: Rowena Seto
Sent: Wednesday, August 3, 2022 3:13 PM
To: DeSmet, Michael@Waterboards <Michael.DeSmet@Waterboards.ca.gov>
Cc: Lilly Tan <lillytan@gmail.com>; franceslee57@gmail.com; Timothy Kirk <kirk@medinasetolaw.com>
Subject: RE: French Cleaners (GeoTracker ID #T10000005026) - 416 West Yosemite Ave, Manteca

Hi Michael,

I've been out of the office on a semi-vacation for the last two weeks and your email came in just after I turned off my out-of-office autoreply – impressive timing.

This is my first day back and I have some catching up to do, as one does when they have the audacity to take time off! I'll circle back with you shortly.

Best,
Rowena

From: DeSmet, Michael@Waterboards <Michael.DeSmet@Waterboards.ca.gov>
Sent: Wednesday, August 3, 2022 1:59 PM
To: Rowena Seto <seto@medinasetolaw.com>
Cc: Lilly Tan <lillytan@gmail.com>; franceslee57@gmail.com; Timothy Kirk <kirk@medinasetolaw.com>
Subject: RE: French Cleaners (GeoTracker ID #T10000005026) - 416 West Yosemite Ave, Manteca

Hello Rowena,

I am checking in to see if you were able to secure business records or determine Frances/French Cleaners ownership status relative to past owners. I am currently in the process of developing a Potentially Responsible Party memorandum discussing ownership of the property that will be reviewed by Central Valley Water Board and State Water Board management during the determination of responsible parties and the funding status of the project.

Please let me know if you were able to find documents relating to the transfer of the business as well as if you have been able to process the waste manifests mentioned below. Thank you for your time and attention to this case. Please let me know if you have any questions.

Regards,

Michael DeSmet, PG
Engineering Geologist - UST Enforcement Unit
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670-6114
Office: 916.464.4830
Michael.DeSmet@waterboards.ca.gov



From: Rowena Seto <seto@medinasetolaw.com>
Sent: Monday, July 11, 2022 7:33 AM
To: DeSmet, Michael@Waterboards <Michael.DeSmet@Waterboards.ca.gov>
Cc: Lilly Tan <lillytan@gmail.com>; franceslee57@gmail.com; Timothy Kirk <kirk@medinasetolaw.com>
Subject: RE: French Cleaners (GeoTracker ID #T10000005026) - 416 West Yosemite Ave, Manteca

EXTERNAL:

Dear Michael,

Your email is very helpful; thank you. I'll be back in touch after we've had a chance to look for the requested business records and/or after the manifests have been uploaded to our file and are ready for your review.

Best,
Rowena

*****Please note our address has changed. Our new address is below.*****



Rowena C. Seto, Esq.

Medina Seto Law Group
4 Embarcadero Center, Suite 1400
San Francisco, CA 94111
Main: (415) 851-9887
Direct: (415) 851-9890
Facsimile: (415) 851-9882
Toll Free: (877) 217-3810
www.MedinaSetoLaw.com

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From: DeSmet, Michael@Waterboards <Michael.DeSmet@Waterboards.ca.gov>
Sent: Monday, July 11, 2022 10:26 AM
To: Rowena Seto <seto@medinasetolaw.com>
Cc: Lilly Tan <lillytan@gmail.com>; franceslee57@gmail.com; Timothy Kirk <kirk@medinasetolaw.com>
Subject: RE: French Cleaners (GeoTracker ID #T10000005026) - 416 West Yosemite Ave, Manteca

Hello Rowena,

The SafetyKleen records demonstrating the disposal of dry-cleaning solvents containing PCE are the ones relevant to this issue. Based on your February 2019 letter, Ms. Lee converted the solvent-based system to a hydrocarbon-based system in 2009. So, the records from 1996 to 2009, covering the PCE-use period would be most necessary. However, I also think some of the records, post-2009 (as a suggestion, 1 years' worth), would be useful in establishing that Ms. Lee did remove the solvent-based equipment and was then only generating hydrocarbon wastes, but I am open to a better way to demonstrate that the solvent-based system was removed and replaced with the hydrocarbon-based system. Perhaps

the purchase records of the hydrocarbon-based equipment are also available? Establishing with evidence when Ms. Lee started using PCE containing solvents, when she stopped using those solvents, and accounting for those solvents after use is the goal. As I mentioned I am open to the best way of evidencing these items clearly and completely.

Regarding the waste manifests, scanned copies that clearly show disposal dates and volumes would be ideal.

Regarding business ownership, I am interested in a record that shows that Ms. Lee did not purchase the business entity from JoAnn Thayer, that Ms. Lee did not purchase a corporation or some other business vehicle that has responsibility for the release. Ideally, the documentation would show that Ms. Lee created her own business entity and purchased only the equipment from Ms. Thayer, and that she entered into an agreement to lease the building on the property under that business entity that she created and not as a business entity that previously leased the property. Ultimately it should be demonstrated as best as possible that there is a disconnect between previous French Cleaners business entities and Ms. Lee. Z

I hope my explanations have made things more clear, I apologize if they have not. Please let me know if I can provide better clarification. Ultimately, it needs to be shown that Ms. Lee does not have a connection to the PCE discharge or to the business that caused the discharge, other than by virtue of operation of the business that still bears the French Cleaners name.

Regards,

Michael DeSmet, PG
Engineering Geologist - UST Enforcement Unit
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670-6114
Office: 916.464.4830
Michael.DeSmet@waterboards.ca.gov



From: Rowena Seto <seto@medinasetolaw.com>
Sent: Friday, July 8, 2022 3:01 PM
To: DeSmet, Michael@Waterboards <Michael.DeSmet@Waterboards.ca.gov>
Cc: Lilly Tan <lillytan@gmail.com>; franceslee57@gmail.com; Timothy Kirk <kirk@medinasetolaw.com>
Subject: RE: French Cleaners (GeoTracker ID #T10000005026) - 416 West Yosemite Ave, Manteca

EXTERNAL:

Dear Michael,

No need to apologize! I don't expect an immediate response, as I understand people have other matters to tend to, personal lives, etc.

We were able to locate the Safety-Kleen Uniform Hazardous Waste Manifests from 1996 to 2017. Unfortunately, we received these before our firm converted to all-electronic files, and thus these records are all still in their original form (old, thin carbon paper and receipts, with many staples). We will need to have them scanned.

Would you like all the manifests, and in their entirety? Would you prefer electronic copies or should I have tangible copies made for you?

Ms. Lee purchased the business in 1996. We have yet to locate purchase records. What sort of documents are you seeking in this regard?

Best,
Rowena

From: DeSmet, Michael@Waterboards <Michael.DeSmet@Waterboards.ca.gov>
Sent: Friday, July 8, 2022 8:36 AM
To: Rowena Seto <seto@medinasetolaw.com>
Cc: franceslee57@gmail.com; Lilly Tan <lillytan@gmail.com>; Timothy Kirk <kirk@medinasetolaw.com>
Subject: RE: French Cleaners (GeoTracker ID #T10000005026) - 416 West Yosemite Ave, Manteca

Good morning, Rowena,

Sorry I didn't get back to you yesterday as I was out of the office. Thank you for getting in touch, it is appreciated. I understand the need for time to get back up to speed on this issue. I too look forward to resolving this matter and determining Ms. Lee's responsibility towards the case. I am here to help/provide guidance as much as possible. Likewise, please let me know if anything is needed from me. I look forward to the results of your review.

Regards,

Michael DeSmet, PG
Engineering Geologist - UST Enforcement Unit
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670-6114
Office: 916.464.4830
Michael.DeSmet@waterboards.ca.gov



From: Rowena Seto <seto@medinasetolaw.com>
Sent: Wednesday, July 6, 2022 2:47 PM
To: DeSmet, Michael@Waterboards <Michael.DeSmet@Waterboards.ca.gov>
Cc: franceslee57@gmail.com; Lilly Tan <lillytan@gmail.com>; Timothy Kirk <kirk@medinasetolaw.com>
Subject: RE: French Cleaners (GeoTracker ID #T10000005026) - 416 West Yosemite Ave, Manteca

EXTERNAL:

Dear Mr. DeSmet,

Thank you for your email, and I hope you had a nice holiday weekend. Please note that I will be taking over the primary handling of this matter, and that this law firm has a new office/ mailing address. Our address and my direct line are in my signature below.

I understand that you spoke with Lilly Tan, Frances Lee's niece, today. I've copied Lilly as well as Ms. Lee on this email; you indeed had Ms. Lee's correct email address.

This matter has been dormant for some time, so we will need to review our file for the requested SafetyKleen documents and ownership records. I will endeavor to get back to you later this week. In the interim, please let me know if there is anything else you need from us. We look forward to working with you to finally resolving this matter.

Best,
Rowena

*****Please note our address has changed. Our new address is below.*****



Rowena C. Seto, Esq.
MEDINA SETO LAW GROUP
Four Embarcadero Center
Suite 1400
San Francisco, CA 94111
Main: (415) 851-9887
Direct: (415) 851-9890
Facsimile: (415) 851-9882
Toll Free: (877) 217-3810
www.MedinaSetoLaw.com

Please note that all members of our law firm are working from home due to the ongoing COVID-19 pandemic. Accordingly, please send all documents by e-mail or facsimile until further notice. All documents sent to our office by mail, UPS, FedEx or messenger will encounter significant delays in processing and distribution to its intended recipient.

This e-mail message is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution of this e-mail message is prohibited. If you are not

the intended recipient, please destroy all paper and electronic copies of this message and immediately notify the sender.

----- Forwarded message -----

From: **DeSmet, Michael@Waterboards** <Michael.DeSmet@waterboards.ca.gov>
Date: Fri, Jul 1, 2022, 6:04 AM
Subject: RE: French Cleaners (GeoTracker ID #T10000005026) - 416 West Yosemite Ave, Manteca
To: Kirk@medinasetolaw.com <Kirk@medinasetolaw.com>
Cc: franceslee57@gmail.com <franceslee57@gmail.com>

12 February 2019 letter attached.

Regards,

Michael DeSmet, PG
Engineering Geologist - UST Enforcement Unit
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670-6114
Office: 916.464.4830
Michael.DeSmet@waterboards.ca.gov

From: DeSmet, Michael@Waterboards
Sent: Friday, July 1, 2022 5:52 AM
To: Kirk@medinasetolaw.com
Cc: franceslee57@gmail.com
Subject: French Cleaners (GeoTracker ID #T10000005026) - 416 West Yosemite Ave, Manteca

Good morning, Mr. Kirk,

I have recently assumed the role of case manager for the Central Valley Water Board site cleanup case referenced in the subject of this email. During my review of this case file, I came across a 12 February 2019 letter from Medina Seto to Paladin Law Group (attached). In that letter, you offer to provide SafetyKleen records that account for the disposal of all tetrachloroethene (PCE) dry cleaning waste generated by Ms. Frances Lee during her ownership and operation of French Cleaners. The Central Valley Water Board does not have copies of these manifests. Will you please provide them?

Additionally, in the 12 February 2019 letter you document that Ms. Lee is a responsible party for this case only because Ms. Lee was named as a responsible party by the Central Valley Water Board. I am hoping to clearly determine Ms. Lee's status, and if Ms. Lee is not a responsible party, then I would like to absolve her of that status. A key piece of information in determining Ms. Lee's status is knowing how Ms. Lee obtained ownership of French Cleaner's from its prior owner, Ms. Joanne Thayer. Specifically, whether Ms. Lee purchased the business entity from Ms. Thayer or Ms. Lee purchased only the equipment from Ms. Thayer and began ownership of French Cleaners as her own business entity. If you can provide documentation of Ms. Lee's ownership status it would be appreciated.

This case is once again under consideration for funding under the State Water Board's Site Cleanup Subaccount Program (SCAP). A definitive determination of Ms. Lee's status will be helpful in determining the appropriate path forward for funding under SCAP, as well as determining Ms. Lee's need for involvement in the program.

Please note I have copied Ms. Lee on this email, using the currently available contact information we have. If this is no longer Ms. Lee's email address, will you please provide her with this email? Please let me know if you have any questions or comments about my request or the case. Thank you for your time and attention.

Regards,

Michael DeSmet, PG
Engineering Geologist - UST Enforcement Unit
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670-6114
Office: 916.464.4830
Michael.DeSmet@waterboards.ca.gov

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PROOF OF SERVICE

*In Re FRENCH CLEANERS, Petitioner,
For Review of Order No. R5-2024-0807
by Central Valley Regional Water Quality Control Board*

STATE WATER RESOURCES CONTROL BOARD

STATE OF CALIFORNIA

At the time of service, I was over 18 years of age and not a party to the action. My business address is 4 Embarcadero Center, 14th Floor, San Francisco, CA 94111.

On April 16, 2024, I served the following document(s):

PETITION FOR REVIEW

REQUEST FOR STAY OF REGIONAL BOARD ORDER PENDING HEARING OR OTHER ACTION

I served the documents on the following persons at the following addresses:

State Water Resources Control Board
Office of Chief Counsel
Adrianna M. Crowl
P.O. Box 100
Sacramento, CA 95812-0100
E-mail: waterqualitypetitions@waterboards.ca.gov

Central Valley Regional Water Quality Control Board
Attn: Patrick Pulupa, Executive Officer
Attn: Michael DeSmet, PG, Engineering Geologist
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670-6114
E-mail: Patrick.Pulupa@waterboards.ca.gov
E-mail: Michael.DeSmet@waterboards.ca.gov

The documents were served by the following means:

BY E-MAIL OR ELECTRONIC TRANSMISSION: Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent from e-mail address @MedinaSetoLaw.com to the persons at the e-mail addresses listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

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With courtesy copy by the following means:

- BY U.S. MAIL: I enclosed the documents in a sealed envelope or package addressed to the parties at the addresses in the attached service list and placed the envelope or package for collection and mailing, following our ordinary business practices. I am readily familiar with the firm’s practice for collection and processing correspondence for mailing. Under that practice, on the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the U.S. Postal Service, in a sealed envelope or package with the postage fully prepaid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on April 16, 2024, at New Canaan, Connecticut.



Rowena C. Seto