



Central Valley Regional Water Quality Control Board

22 September 2023

CERTIFIED MAIL
7012 0470 0000 9904 1877

Alison Pool, Trustee
Alison Elaine Pool Living Trust
5744 Creel Road
Mariposa, CA 95370

CERTIFIED MAIL
7012 0470 0000 9904 1884

Alison Pool, Trustee
Alison Elaine Pool Living Trust
199 East Mono Way
Sonora, CA 95370

WATER CODE SECTION 13267 ORDER R5-2023-0804 TO SUBMIT TECHNICAL REPORTS, CHASE BROTHERS – SONORA BULK PLANT, 199 EAST MONO WAY, SONORA, TUOLUMNE COUNTY (GEOTRACKER GLOBAL ID SL375273643)

You are legally obligated to respond to this Order. Please read this Order carefully.

The Central Valley Regional Water Quality Control Board (Central Valley Water Board) makes the following findings and issues this Order pursuant to Water Code section 13267, requiring the Alison Elaine Pool Living Trust through its Trustee Alison Pool, Chase Brothers, Inc. doing business as Chase('s) Foothill Petroleum, the previous property owner Ira S. Chase (Ira Chase, Sr.), and former operator Christopher "Ira" Chase (Ira Chase) (Discharger(s)) to investigate and submit technical reports concerning historical discharges of petroleum compounds at the subject property (Site). Case files for the Site are available on the State Water Resources Control Board's GeoTracker database at <https://geotracker.waterboards.ca.gov/>. The Central Valley Water Board finds as follows:

1. In an 11 January 1994 letter, the Tuolumne County Health Department (TCHD) referred to the Central Valley Water Board a 12 October 1992 discharge of petroleum at the Chase Brothers Bulk Plant (facility), which operated at the Site. TCHD reported that petroleum had been discharged into the ground from a hole in an underground fuel delivery line connected to an above ground storage tank. The discharge resulted in an approximately 3-foot diameter area of fuel-soaked soil.
2. Chase Foothill Petroleum, the Site operator, excavated approximately 158 cubic yards of petroleum impacted soil (to an unknown depth) and stockpiled the soil on Site.
3. Alison Pool and her brother Ira Chase took over operation of Chase Foothill Petroleum in 1993.

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

4. The facility on Site closed on 30 June 1993.
5. In a 3 June 1994 letter to Ira Chase of Chase's Foothill Petroleum, Central Valley Water Board staff (Staff) explained that due to the shallow groundwater depth on Site, ranging from 10-40 feet below ground surface, the petroleum discharge posed a threat to groundwater quality and the beneficial uses of the State's waters at the Site.
6. In a 28 October 1994 letter from Staff to Ira Chase of Chase Brothers, Inc., Staff noted:

A few months ago, I discussed with Ms. Allison Chase the need for an investigation to determine the extent of contamination observed by Mr. Dan Kermoyan of the TCHD. At that time, Ms. Chase stated Mr. Kermoyan had told her that the site was not a problem. Ms. Chase and I agreed to each contact Mr. Kermoyan to clarify his position on the matter. During a conversation on 22 August 1994, Mr. Kermoyan informed me that he never told Chase Brothers Inc. that there was no problem at the site. On the contrary, he said that he thinks there is a problem at the site which is why he referred the matter to the Board. To date, we have never heard back from Ms. Chase regarding any discussion of the matter she has had with Mr. Kermoyan.

As a result, Staff requested that Chase Brothers, Inc. submit a Site investigation work plan to define the extent of contamination of Site soil and groundwater by 30 November 1994.

7. On 30 November 1994, the Central Valley Water Board received a response to its request from Ross Grunwald, Chief Operating Officer of American Geological Services, Inc. (AGS), on behalf of Ira Chase of Chase Brothers Petroleum. The AGS letter requested that the deadline for the work plan be extended to 1 February 1995. Staff granted the extension request.
8. In a 27 January 1995 letter, AGS described its 12 January 1995 analysis of two soil stockpiles, one containing 158 cubic yards and the other containing 44 cubic yards, which reportedly were "generated from the excavation of underground storage tanks at the Chase Brothers Petroleum Exxon station, located at 400 South Washington Street, Sonora." AGS reported that "[t]hese piles had been contaminated with gasoline and, although they were not sampled shortly after excavation on December, 1993 [sic], they contained detectable gasoline and BTEX when they were sampled by [AGS] on April 13, 1994." AGS further reported that the 12 January 1995 analysis detected no detectable gasoline or BTEX compounds in the sampled soil stockpiles. Accordingly, AGS requested that Mr. Ira Chase be granted permission to dispose of the stockpiled soil at his discretion. In a 6 February 1995 letter, TCHD concurred with AGS' request.

9. In a 6 February 1995 letter, Staff notified Ira Chase that the work plan requested in the 28 October 1994 letter was delinquent. In a 16 February 1995 response from AGS, on Mr. Chase's behalf, AGS informed Staff that Ira Chase had stated that he was not currently financially able to initiate the requested work and that he was seeking to contact previous plant operators and to obtain financial assistance for the requested investigation and potential remediation at the Site. In a follow-up 24 April 1995 letter from Ira Chase to Staff, Mr. Chase stated that he believed the matter did not require further attention from the Central Valley Water Board and requested that the matter be closed.
10. In a 25 April 1995 letter from Staff to Chase Brothers, Inc., Staff reiterated the 28 October 1994 request for an investigation work plan, setting a new deadline of 30 May 1995.
11. In a May 1995 letter from Ira Chase to Staff, Mr. Chase stated that the stockpiled soil had been removed from the Site and used to build up the base of the road near Mono Way. The letter further stated that, "[a]s explained in the letter dated April 24, 1995, the October 1992 incident was taken care of at that time. Again we feel no need for further work."
12. In a 12 June 1995 letter from Staff to Chase Brothers, Inc., via Ira Chase, care of Alison Chase, Staff noted that Mr. Chase's letters from April and May 1995 did not provide evidence of an investigation to define the extent of contamination in Site soil and groundwater as requested on 28 October 1994. Staff explained that the scope of contamination must be defined before the Central Valley Water Board could proceed with remediation or certify closure of the cleanup case at the Site. The letter reiterated the request for an investigation work plan.
13. Chase Brothers, Inc. became inactive as a company on 1 February 2001.
14. Ira Chase, Sr. passed away in 2006.
15. The 11 January 1994 letter from TCHD documents that Chase Foothill Petroleum was operating on Site during the time of the petroleum release. Publicly available property history records show that Ira Chase, Sr. personally owned the Site from at least 1999 until his passing in 2006. In 2011, ownership of the Site was transferred to the Ira S. Chase Trust, before being sold to the Alison Elaine Pool Living Trust.
16. In a 16 January 2019 letter from Staff to Alison Pool (formerly Alison Chase), the current owner of the Site property, Staff requested a status update on contamination at the Site or, alternatively, a work plan for additional investigation, if necessary. Response was requested by 28 February 2019. Staff did not receive a response. A follow-up 18 January 2022 letter from Staff to Ms. Pool reiterated the request.

17. On 22 February 2022, E2C Remediation, on Ms. Pool's behalf, met with Staff to discuss plans for additional Site characterization.
18. In an 11 May 2022 letter from Staff to Ms. Pool, Staff requested that an investigation work plan be submitted by 11 July 2022. On 18 July 2022, E2C requested an extension of the deadline to 11 September 2022. Staff granted the extension. On 12 September 2022, Staff issued a letter to Ms. Pool noting that the requested work plan has not been received and that the extent of contamination at the Site has not been characterized. Staff did not receive a response from Ms. Pool.

Legal Authority

19. Water Code section 13267, subdivision (a), states,

A regional board, in establishing or reviewing any water quality control plan or waste discharge requirements, or 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.

20. Water Code section 13267, subdivision (b), further provides,

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...waste within its region...that could affect the quality of waters 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.

21. Petroleum is known to have been discharged to land at the Site on 12 October 1992 and to have posed a threat to groundwater quality therein.

22. In *Tesoro Refining & Marketing Co. LLC v. Los Angeles Regional Water Quality Control Bd.* (2019), 42 Cal.App.5th 453, 472-473 (*Tesoro*), the court explained that the 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. [citations] An actionable discharger, 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.

Central Valley Water Board staff suspects that Site groundwater may be impacted or threatened by an ongoing discharge of petroleum wastes attributable to the 1992 discharge and/or the 1992-95 soil stockpiling at the Site.

23. As Site operator during the relevant timeframe, Chase Brothers, Inc. (doing business as Chase('s) Foothill Petroleum) is known and suspected to have discharged waste that could affect the quality of the waters of the State at the Site. Chase Brothers, Inc. is therefore subject to this Order.
24. Chase Foothill Petroleum formerly operated on Site during the time of the release. Ira Chase assumed ownership of the Chase Foothill Petroleum company and operation the Chase Brothers Bulk Plant in 1993, while TCHD and Central Valley Water Board staff requested additional investigation into the reported petroleum release. Ira Chase, Sr. owned the Site dating back to at least 1999. As former owners and operators of the property, Ira Chase, Sr. and Ira Chase are suspected to have caused or permitted an ongoing discharge of waste that has impacted, or threatened to impact, the quality of the waters of the State. Ira Chase, Sr. and Ira Chase are therefore subject to this Order.
25. The Alison Elaine Pool Living Trust has owned the Site property since 3 June 2016 and is the current owner of the property. As current owner of the property, the Trust is suspected to have caused or permitted an ongoing discharge of waste that has impacted, or threatened to impact, the quality of the waters of the State. The Trust, through its Trustee, is therefore subject to this Order.
26. The investigation and reporting required by this Order are necessary to evaluate the scope and character of petroleum wastes present in soil and groundwater at the Site, to determine risks posed to human health and safety and the environment, and to ascertain the need for additional remediation. Based upon experience with similar cleanup cases, Staff estimates that the cost of compliance with this Order will be approximately \$20,000. The burden, including costs, of the require reports bears a reasonable relationship to the need for those reports and the benefits to be obtained thereby.
27. Pursuant to Water Code section 13268, failure to submit required reports or falsifying information therein is a misdemeanor and may subject the Discharger(s) to administrative civil liability up to \$1,000 per violation per day.

The Central Valley Water Board further reserves the right to pursue any other enforcement measures provided for by law.

REQUIRED ACTIONS

THEREFORE, IT IS HEREBY ORDERED:

1. **Within 60 days** from the date of this letter, the Discharger(s) shall submit a Site Investigation Work Plan (Work Plan) for Central Valley Water Board staff concurrence.
2. **Within 60 days** of receiving Central Valley Water Board staff concurrence with the scope of work proposed in the Work Plan, the Discharger(s) shall begin implementation of the Work Plan. The Discharger(s) shall provide Central Valley Water Board staff a minimum 48-hour notice prior to conducting any field work.
3. **Within 240 days** from the date of this letter, the Discharger(s) shall submit to the Central Valley Water Board staff for review a Site investigation report that presents the results of the implementation of the Work Plan. **Enclosure** includes an outline of the minimum requirements of a Site investigation report.

ADDITIONAL REPORTING REQUIREMENTS

4. When reporting data, the Discharger(s) shall arrange the information in tabular form so that the date, the constituents, and the concentrations are readily discernible. The data shall be summarized in such a manner as to clearly illustrate compliance with this Order.
5. All technical reports required herein that involve planning, investigation, evaluation, or design, or other work requiring interpretation and proper application of engineering or geologic sciences, shall be prepared by or under the direction of persons licensed to practice in the California Business and Professions Code sections 6735, 7835, and 7835.1. As required by these laws, completed technical reports must bear the signature(s) and seal(s) of the licensed professional(s) in a manner such that all work can be clearly attributed to the professional responsible for the work.
6. All reports submitted under this Order (including non-technical submittals) shall be accompanied by the following certification, submitted under penalty of perjury by the Discharger(s) or their duly authorized representative:

I, (NAME), certify under penalty of law that this document and all attachments were prepared by me, or under my direction or 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 a fine and imprisonment for knowing violations.

7. All reports and analytical results shall be submitted electronically via the State Water Board GeoTracker website (<https://geotracker.waterboards.ca.gov>). The California Code of Regulations, Title 23, Division 3, Chapter 30, and Title 27, Division 3, Subdivisions 1 and 2, require you or your consultants to electronically submit analytical laboratory data in an electronic deliverable format for soil, vapor, and water samples, site map (i.e., GEO_MAP), boring/well survey information, depth to groundwater, boring logs and well screen intervals, location data (i.e., GEO_XY file), elevation data (i.e., GEO_Z file), and technical reports (e.g., work plans, assessment, and monitoring reports) in portable data format (PDF) to the State Water Board GeoTracker database over the internet at https://www.waterboards.ca.gov/ust/electronic_submittal/index.shtml. More information regarding GeoTracker can be found at <https://geotracker.waterboards.ca.gov>. Additionally, Central Valley Water Board staff may request paper copies of a report, data tables, or maps and figures in certain instances.

Any person aggrieved by this Central Valley Water Board action may petition the State Water Board for review 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 that if the 30th day falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day.

Laws and regulations applicable to filing petitions may be found on the State Water Board website (https://www.waterboards.ca.gov/public_notices/petitions/water_quality) and will be provided upon request.

If you have questions regarding this Order, please contact Mitch Messmer at (916) 464-5817 or mitch.messmer@waterboards.ca.gov.

This Order is effective upon signature.

For Patrick Pulupa, Executive Officer

Enclosures: Report Requirements

cc: Tuolumne County Environmental Health Department, Sonora, CA