

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

CLEANUP AND ABATEMENT ORDER R5-2014-0705  
FOR

TOWNE CENTER PLAZA, INC.  
LARRY PISTORESIS SR. AND VELMA PISTORESIS  
LARRY PISTORESIS JR. AND LINDA PISTORESIS  
MONTE PISTORESIS AND LEONA PISTORESIS  
MONTE PISTORESIS FAMILY TRUST  
PISTORESIS COMMUNITY PROPERTY TRUST  
CONCERNING AN UNDERGROUND STORAGE TANK RELEASE  
FORMER PISTORESIS CHEVROLET  
442 WEST ROBERTSON BOULEVARD, CHOWCHILLA  
MADERA COUNTY

This Order is issued to Towne Center Plaza, Inc., a California corporation, Larry Pistoiresi Sr., Velma Pistoiresi, Larry Pistoiresi Jr., Linda Pistoiresi, Monte Pistoiresi, Leona Pistoiresi, the Monte Pistoiresi Family Trust, and the Pistoiresi Community Property Trust (hereafter collectively referred to as "Dischargers"), based on provisions of Health and Safety Code section 25296.10, and on Water Code section 13304 which authorize the Regional Water Quality Control Board, Central Valley Region ("Central Valley Water Board" or "Board") to issue a Cleanup and Abatement Order ("Order"), and a Water Code section 13267 Order, which authorizes the Central Valley Water Board to require the preparation and submittal of technical and monitoring reports.

The Executive Officer finds, with respect to the Discharger's acts or failure to act, the following:

**PROPERTY OWNERSHIP AND OPERATIONS**

1. The property at 442 West Robertson Boulevard, Chowchilla, Madera County (Madera County assessor's parcel number 001-126-004) (hereafter "Site"), has been referred to as Pistoiresi Chevrolet. It is currently a vacant lot.
2. Madera County Recorder's records document that Larry Pistoiresi Sr., Velma Pistoiresi, Larry Pistoiresi Jr., Linda Pistoiresi, Monte Pistoiresi, and Leona Pistoiresi, purchased the Site in 1980.
3. Monte Pistoiresi and Leona Pistoiresi granted their portion of the Site to Monte Pistoiresi and Leona Pistoiresi as Trustees of the Monte Pistoiresi Family Trust in 1992
4. Larry Pistoiresi Sr. and Velma Pistoiresi granted their portion of the Site to Larry Pistoiresi Sr. and Velma Pistoiresi, Trustees of the Pistoiresi Community Property Trust, in 1994.
5. Towne Center Plaza, Inc. purchased the Site from Larry Pistoiresi Jr., Linda Pistoiresi, Monte Pistoiresi and Leona Pistoiresi as Trustees of the Monte Pistoiresi Family Trust, and Larry Pistoiresi and Velma Pistoiresi, Trustees of the Pistoiresi Community Property Trust in 2005. The California Secretary of State lists the Agent for Service of Process for Towne Center Plaza, Inc., as Larry Pistoiresi Jr.

**BACKGROUND**

6. File correspondence titled *Underground Storage Tank Removal* prepared by The Twining Laboratories, Inc., and dated 4 April 1990, documented that one 1,000-gallon gasoline and one 500-gallon waste oil underground storage tanks (USTs) were removed during March 1990. Analytical results for soil samples collected from beneath the gasoline tank indicated total petroleum hydrocarbons as gasoline (TPHg) of 760 milligrams per kilogram (mg/kg), benzene of 1.4 mg/kg, toluene of 3.9 mg/kg, ethylbenzene of 3.5 mg/kg, and xylenes of 90 mg/kg.

Analytical results indicated low concentrations of oil and grease in soil samples from beneath the waste oil UST.

7. On 14 May 1990, the Madera County Environmental Health Department issued an Underground Storage Tank Unauthorized Release (Leak)/Contamination Report. The report was the initial notification documenting the occurrence of an unauthorized petroleum hydrocarbon release at the Site.
8. File correspondence titled *Preliminary Site Assessment Report* prepared by Helmick & Lerner, Inc., and dated 4 July 1990, documented that three borings were drilled at the Site during June 1990, and that TPHg was found to extend to a depth of at least 40 feet.
9. File correspondence titled *Additional Site Investigation Report* prepared by APEX Envirotech, Inc., (APEX) and dated 4 March 2008, documented that during December 2007, five additional borings were drilled and soil and groundwater samples collected and analyzed. TPHg was detected in soil at concentrations as high as 20,000 mg/kg to a depth of 50 feet, the total depth drilled. Groundwater was encountered at a depth of approximately 50 feet during 2007. Analytical results of water samples obtained from each boring reported concentrations of TPHg as high as 120,000 micrograms per liter ( $\mu\text{g/L}$ ), benzene as high as 14,000  $\mu\text{g/L}$ , toluene as high as 25,000  $\mu\text{g/L}$ , ethylbenzene as high as 2,800  $\mu\text{g/L}$ , and xylenes as high as 14,000  $\mu\text{g/L}$ .
10. File correspondence dated 12 March 2008, documented that the Madera County Environmental Health Department referred the case to the Central Valley Water Board to initiate regulatory oversight as the lead agency.
11. Correspondence dated 1 April 2008 from the Central Valley Water Board staff directed Towne Center Plaza, Inc., to submit a work plan to further assess the extent of the release, install vapor extraction wells, and perform a vapor extraction pilot test. In response, APEX, on behalf of Towne Center Plaza, Inc., submitted the *Additional Subsurface Investigation and Soil Vapor Extraction Pilot Test Workplan* dated 10 June 2008, and the *Additional Subsurface Investigation and Soil Vapor Extraction Pilot Test Workplan Addendum* dated 11 August 2014.
12. File correspondence titled *Additional Subsurface Investigation Report* prepared by APEX and dated 17 November 2008, documented the installation and sampling of groundwater monitoring wells MW-1, MW-2, MW-3, MW-4, and two vapor extraction well clusters at the Site in October 2008. Analytical results of groundwater samples from the monitoring wells indicated concentrations of TPHg were as high as 28,000  $\mu\text{g/L}$ , benzene was as high as 910  $\mu\text{g/L}$ , toluene was as high as 5,000  $\mu\text{g/L}$ , ethylbenzene was as high as 500  $\mu\text{g/L}$ , xylenes were as high as 3,000  $\mu\text{g/L}$ , and 1,2 dichloroethane (1,2-DCA) was as high as 130  $\mu\text{g/L}$ .
13. File correspondence titled *Soil Vapor Extraction Pilot Test Results Report* prepared by APEX and dated 28 May 2009, documented that a soil vapor extraction pilot test and vapor analyses was performed during November 2008. Concentrations of TPHg in the extracted vapors ranged from 12,000 parts per million by volume (ppmv) to 39,000 ppmv. The radius of vacuum influence was approximately 55 feet for the shallow wells, and approximately 40 feet for the deep wells.
14. APEX submitted the *Remedial Action Plan (RAP)* dated 16 September 2009 which proposed soil vapor extraction and air sparging for Site remediation. The RAP was concurred with by the Central Valley Water Board in file correspondence dated 28 October 2009. As documented in the *Air Sparging Well, Vapor Extraction, and Remediation System Installation Results Report* prepared by APEX and dated 26 January 2012, four air sparge wells and one additional vapor

extraction well cluster were installed at the Site during December 2009. Soil vapor extraction and groundwater air sparging commenced during November 2011.

15. File correspondence titled *Groundwater Monitoring Well Installation Results Report* prepared by APEX and dated 4 May 2011, documented that groundwater wells MW-5 and MW-6 were installed in February 2011, with MW-5 the furthest downgradient, and MW-6, a background well.
16. In file correspondence dated 25 January 2012, Central Valley Water Board staff requested that additional investigation be performed downgradient of MW-5 based on concentrations of 1,2-DCA, ranging from 500 µg/L to 710 µg/L, reported in MW-5.
17. APEX submitted the *Workplan for Offsite Assessment* dated 23 February 2012 to install the additional well, which Central Valley Water Board staff concurred with in correspondence dated 17 September 2012. Staff requested that a well installation report be submitted by 1 February 2013, but one was never submitted.
18. File correspondence titled *Second Semi-Annual 2012 Groundwater Monitoring and Fourth Quarter 2012 Remediation Status Report* prepared by APEX and dated 21 February 2013, documented that the last groundwater monitoring sampling and analytical event was performed in December 2012. The report contained the analytical results of groundwater samples from the monitoring wells which indicated concentrations of TPHg as high as 4,400 µg/L, benzene as high as 520 µg/L, and 1,2 dichloroethane (1,2-DCA) as high as 280 µg/L. The extent of the plume containing the contamination remains undefined. APEX has stated that there are no plans to continue with groundwater monitoring or to conduct additional Site investigation.
19. File correspondence prepared by APEX and dated 10 July 2013 stated that APEX is owed \$154,000 for work performed at the Site, and will no longer perform work at the Site until the outstanding account is resolved. Central Valley Water Board staff visited the Site on 5 June 2013, and again on 27 March 2014, and confirmed that the remediation system was not operating.

### LEGAL AUTHORITY

20. Water Code section 13304(a) states, in relevant part:

Any person ... who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board clean up the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including but not limited to, overseeing cleanup and abatement efforts.

21. Water Code section 13267(b)(1) states, in relevant part:

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, or who proposes to discharge 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.

22. Water Code section 13304(c)(1) states, in relevant part:

... the person or persons who discharged the waste, discharges the waste, or threatened to cause or permit the discharge of the waste within the meaning of subdivision (a), are liable to that government agency to the extent of the reasonable costs actually incurred in cleaning up the waste, abating the effects of the waste, supervising cleanup or abatement activities, or taking other remedial actions. . .

23. The *Water Quality Control Plan for the Sacramento River Basin and the San Joaquin River Basin*, Fourth Edition, revised October 2011 (the “Basin Plan”), designates beneficial uses of the waters of the State and establishes water quality objectives (“WQOs”) to protect those waters. Present and potential future beneficial uses of groundwater beneath the Site include municipal and domestic supply (“MUN”), agricultural supply, industrial supply, and industrial process supply.
24. Chapter 3 of the Basin Plan contains a narrative WQO for chemical constituents which requires, in part, that groundwater not contain chemical constituents in concentrations that adversely affect any beneficial use. For groundwaters that are designated MUN, the Basin Plan incorporates by reference drinking water maximum contaminant levels (“MCLs”) promulgated in the California Code of Regulations, title 22, chapter 15 (“Title 22”). The following constituents have numeric MCLs associated with them, and these numeric MCLs implement the narrative WQO for chemical constituents:

Constituent	Limits*	WQO	Reference
1,2-DCA	0.5	Chemical	Primary MCL, Title 22
Benzene	1	Chemical	Primary MCL, Title 22

\* In micrograms per liter (ug/L)

The concentrations of the waste constituents listed above that are found in groundwater beneath the Site (Findings 12, 16, 18), or are likely to be found in groundwater after migration from soils, significantly exceed the applicable WQOs.

25. Chapter 3 of the Basin Plan also contains narrative WQOs that apply to groundwater for tastes and odors. The taste and odor WQO requires, in part, that, groundwater not contain substances in concentrations that cause nuisance, adversely affect beneficial uses, or impart undesirable tastes and odors to municipal and domestic water supplies. The following constituents detected beneath the Site have taste and odor thresholds:

Constituent	Taste and Odor Threshold* (reference see below)
TPHg	5
Benzene	170
Toluene	42
Ethylbenzene	29
Xylenes	17

\* In micrograms per liter (ug/L)

The taste and odor thresholds were obtained from the State Water Resources Control Board (“State Water Board”) *A Compilation of Water Quality Goals* available at:

[http://www.waterboards.ca.gov/water\\_issues/programs/water\\_quality\\_goals/](http://www.waterboards.ca.gov/water_issues/programs/water_quality_goals/)

The concentrations of the waste constituents listed above that are found in groundwater beneath the Site (Findings 12, 16, 18), or are likely to be found in groundwater after migration from soils, significantly exceed the applicable Taste and Odor Thresholds.

26. Chapter 3 of the Basin Plan states the following:

Ground waters shall be maintained free of toxic substances in concentrations that produce detrimental physiological responses in human, plant, animal, or aquatic life associated with designated beneficial use(s).

27. Pollution, as it is defined in Water Code section 13050(l)(1), means the alteration of the quality of the waters of the state by waste to a degree which unreasonably affects either the waters for beneficial uses, or the facilities which serve these beneficial uses. The WQOs delineated in Findings Nos. 24 and 25 are designed to protect the beneficial uses of the groundwater underlying the Site. As the wastes discharged from the Site have caused or have the potential to cause groundwater to exceed the applicable WQOs, a condition of pollution is present in groundwater.

28. California Code of Regulations, title 23, sections 3890 through 3895, require that the Dischargers submit analytical data electronically via the internet using electronically deliverable formats (EDF) designated by the State Water Board that are both non-proprietary and available as public domain. All EDF data must be submitted over the Internet to the State Water Board Geographic Environmental Information Management System database (Geotracker). Geotracker may be accessed at the following address:

<http://geotracker.waterboards.ca.gov/>

In addition, section 3895(b) allows the Central Valley Water Board to specify submittal in alternative forms provided the benefit or need for it bears a reasonable relationship to the burden of producing it.

### **DISCHARGER LIABILITY**

29. Larry Pistoresi Sr. and Velma Pistoresi are subject to this Order because they owned the Site between 1980 and 1994, and the unauthorized release occurred in 1990.

30. Monte Pistoresi and Leona Pistoresi are subject to this Order because they owned the Site between 1980 and 1992, and the unauthorized release occurred in 1990.

31. Larry Pistoresi Jr. and Linda Pistoresi are subject to this Order because they owned the site between 1980 and 2006, and the unauthorized release occurred in 1990.

32. The Monte Pistoresi Family Trust is subject to this Order because it owned the Site between 1992 and 2006, which is after the unauthorized release occurred but before the release was cleaned up.

33. The Pistoresi Community Property Trust is subject to this Order because it owned the Site between 1994 and 2006, which is after the unauthorized release occurred but before the release was cleaned up.

34. Towne Center Plaza, Inc. is subject to this Order because it assumed ownership of the Site on 29 December 2005, and is the current documented owner of the Site.

35. As described in Finding Nos. 29 through 34, the Dischargers are subject to this Order pursuant to Water Code section 13304 because the Dischargers have caused or permitted waste to be discharged or deposited where it has discharged to waters of the State and has created, and

threatens to continue, a condition of pollution or nuisance. The condition of pollution is a priority violation and issuance or adoption of a cleanup and abatement order pursuant to Water Code section 13304 and Health and Safety Code section 25296.10 is appropriate and consistent with policies of the Central Valley Water Board.

36. As described in Finding Nos. 1 through 34, the Dischargers are subject to this Order pursuant to California Water Code section 13267 to submit technical reports, because existing data and information indicate that waste has been discharged, is discharging, or is suspected of discharging, at the Site, which is or was owned and/or operated by the Dischargers named in this Order. The technical reports required by this Order are necessary to assure compliance with Water Code section 13304 and Health and Safety Code section 25296.10, including to adequately investigate and clean up the Site to protect the beneficial uses of waters of the State, to protect against nuisance, and to protect human health and the environment by defining the extent of the pollution and remediating it. Therefore, the burden of producing these reports, including the costs, bears a reasonable relationship to the need for the reports and the benefit to be obtained from them.
37. The issuance of this Order is an enforcement action taken by a regulatory agency and is exempt from the provisions of the California Environmental Quality Act ("CEQA") (Pub. Resources Code § 21000 et seq.), pursuant to California Code of Regulations, title 14, section 15321(a)(2). The issuance of this Order may also be considered an action by a regulatory agency for the protection of the environment (Cal. Code Regs., tit. 14, § 15308.). Implementing this Order may be considered a minor action to prevent, minimize, stabilize, mitigate, or eliminate the release or threatened release of hazardous waste or substances at this existing Site, and is exempt from CEQA in accordance with California Code of Regulations title 14, section 15330.

### REQUIRED ACTIONS

**IT IS HEREBY ORDERED** that, pursuant to Water Code sections 13304 and 13267, and Health and Safety Code section 25296.10, the Dischargers shall:

1. If the Dischargers believe that other parties share responsibility for these discharges, submit a report by **3 July 2014**, which to the best of the Dischargers' abilities, documents the Site's history since the USTs were installed, including a chronology of the Site's ownership and operator history, any evidence detailing the time and origin of the release(s), and the fee title owner. Information in this report may be used to identify additional dischargers who may be added to this or future orders.
2. **By 1 October 2014**, install an additional groundwater monitoring well downgradient of MW-5, and submit a report containing a well drilling log and documentation of the location and method of the installation.
3. **By 4 August 2014**, resume operation of the remediation system, and submit a status report describing when the system was restarted, and whether there any concerns or issues.
4. Sample and submit Semi-Annual Monitoring Reports. Semi-Annual Monitoring Reports are due by the **1st day of the second month following the end of the calendar quarter** in which samples are collected. The next Semi-Annual Monitoring Report is due by **1 August 2014**. Semi-Annual Monitoring Reports shall include the original lab copies of results of all soil, soil vapor, groundwater samples analyzed during the reporting period, and tabulated historical groundwater analyses data to date. The reports are to include tabulated current and historic groundwater elevations, and maps depicting the direction of groundwater flow. While the

groundwater monitoring wells to be sampled, and the constituents analyzed for may be modified by the Central Valley Water Board, until modified, all groundwater samples from all wells must be analyzed for the constituents, and at their corresponding method reporting limits as listed in the table below. Report all discrete peaks identified during the normal course of analysis for chemicals of concern. All concentrations between the method detection limit and the practical quantitation limit, shall be reported as trace.

<b>Groundwater Monitoring Analytes and Frequency</b>		
Parameter	Reporting Limit	Frequency
TPH-g	50 µg/L	Semi-Annually
Benzene	0.5 µg/L	Semi-Annually
Toluene	0.5 µg/L	Semi-Annually
Ethylbenzene	0.5 µg/L	Semi-Annually
Total Xylenes	0.5 µg/L	Semi-Annually
MTBE	0.5 µg/L	Semi-Annually
TBA	5 ug/L	Semi-Annually
1,2-DCA	0.5 ug/L	Semi-Annually
Naphthalene	0.5 ug/L	Semi-Annually

The Semi-Annual Monitoring Reports shall include results of all laboratory analyses of soil vapor samples required by the San Joaquin Valley Unified Air Pollution Control Board, tabulated historical soil vapor concentrations, mass removal rates, and total mass removed. The Semi-Annual Monitoring Reports must include a narrative evaluation of the ongoing remedial effort, a discussion regarding the effectiveness of the remedial strategy, and recommendations regarding the Site's operating remedial system and remedial strategy. The reports are to include a narrative description of the effectiveness of the groundwater monitoring network.

5. **By 4 August 2014**, submit a work plan to investigate concentrations of petroleum hydrocarbons in shallow soil and in soil vapor in the source area on the Site.
6. Within **90 days** of the Central Valley Water Board's staff concurrence with the work plan in Requirement 5, implement the plan and submit a report detailing results of the investigation.
7. Within **30 days** of being directed by the Central Valley Water Board's staff, submit an offsite property owner survey.
8. Within **90 days** of completion, submit a report of the decommissioning of the remediation system, and the destruction of all investigation and remediation wells.

### **GENERAL REQUIREMENTS**

The Dischargers shall:

9. Complete all work and reports in accordance with the *Leaking Underground Fuel Tank Guidance Manual* prepared by the State Water Resources Control Board and dated September 2012. The manual may be viewed on the internet at:

[http://www.waterboards.ca.gov/water\\_issues/programs/ust/](http://www.waterboards.ca.gov/water_issues/programs/ust/)

10. As required by the California Business and Professions Code sections 6735, 7835, and 7835.1, have reports prepared by, or under the supervision of, a California registered professional engineer or geologist and signed by the registered professional. All technical reports submitted by the Dischargers shall include a cover letter signed by an authorized representative of the Dischargers, certifying under penalty of law that the signatory has examined and is familiar with the report and that to their knowledge, the report is true, complete, and accurate. The authorized representative shall also state if it agrees with any recommendations/proposals and whether it approved implementation of said proposals.
11. Conduct work only upon receiving Central Valley Water Board staff's concurrence with the proposed work.
12. Notify Central Valley Water Board staff at least three working days prior to any onsite work, testing, or sampling that pertains to environmental remediation and investigation, and is not routine monitoring, maintenance, or inspection.
13. Obtain all local and state permits and access agreements necessary to fulfill the requirements of this Order prior to beginning the work.
14. Continue any remediation or monitoring activities until such time as the Executive Officer determines that sufficient assessment and/or remediation has been accomplished to fully comply with this Order, and this Order has been either amended or rescinded in writing.

If, for any reason, the Dischargers are unable to perform any activity or submit any document in compliance with the schedule set forth herein, or in compliance with any work schedule submitted pursuant to this Order and approved by the Executive Officer, the Dischargers may request, in writing, an extension of the time specified. The extension request shall include justification for the delay. Any extension request shall be submitted as soon as the situation is recognized and no later than the compliance date. An extension may be granted by revision of this Order or by a letter from the Executive Officer. Extension requests not approved in writing by the Executive Officer with reference to this Order are denied.

If, in the opinion of the Executive Officer, the Dischargers fail to comply with the provisions of this Order, the Executive Officer may refer this matter to the Attorney General for judicial enforcement or may issue a complaint for administrative civil liability. Failure to comply with this Order may result in the assessment of an Administrative Civil Liability of up to \$1,000 per violation per day pursuant to the Water Code section 13268, and up to \$5,000 per violation per day pursuant to section 13350. The Central Valley Water Board reserves its right to take any enforcement actions authorized by law.

Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and Code of Regulations, title 23, sections 2050 and following. 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 30<sup>th</sup> day following the date of this Order 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. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:

[http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality](http://www.waterboards.ca.gov/public_notices/petitions/water_quality)

or they will be provided upon request.

This Order is effective upon the date of signature.

*Original signed by:*

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CLAY L. RODGERS  
Assistant Executive Officer

3 June 2014

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(Date)