



Santa Ana Regional Water Quality Control Board

February 21, 2014

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Bazz Houston Company
c/o Mr. Javier Castro,
President/CEO
12700 Western Avenue
Garden Grove, CA 92841

Chester Houston Jr. Trust
c/o Chester Houston Jr.
12700 Western Avenue
Garden Grove, CA 92841

Cham-Cal Engineering Co.
And Western Avenue
Associates, L.P.
c/o Mr. Edward Chambers,
12722 Western Avenue
Garden Grove, CA 92841

PROPOSED CLEANUP AND ABATEMENT ORDER No. R8-2014-0032 REGARDING THE BAZZ HOUSTON FACILITY AT 12700 WESTERN AVENUE, GARDEN GROVE, CALIFORNIA (GLOBAL ID# SL0605909140; PCA# 2080041) AND CHAM-CAL ENGINEERING CO. FACILITY AT 12722 WESTERN AVENUE, GARDEN GROVE, CALIFORNIA (GLOBAL ID# T10000003496)

Dear Mr. Houston, Mr. Castro, and Mr. Chambers:

We are enclosing a copy of proposed Cleanup and Abatement Order No. R8-2014-0032 (Order). This Order was developed in accordance with California Water Code Section 13304. The Order requires the investigation and cleanup of contaminants that have impacted, are impacting or threaten to impact the beneficial uses of groundwater in the Orange County Groundwater Management Zone, as a result of discharges of waste from the Bazz Houston Company Facility (12700 Western Avenue, Garden Grove, California) and the Cham-Cal Engineering Facility (12722 Western Avenue, Garden Grove, California).

This Order is scheduled for consideration by the Regional Board at its April 25, 2014 meeting. The meeting will start at 9:00 a.m. and will be held at the Orange County Water District, 18700 Ward Street, Fountain Valley, CA 92708.

The Hearing will be conducted in accordance with the attached Notice of Public Hearing and Proposed Hearing Procedure. Please read the procedures carefully.

February 21, 2014

If you have any questions, please contact me at (951)782-3238, or by email at michael.adackapara@waterboards.ca.gov, or you may contact Ann Sturdivant, Chief of our Site Cleanup Section, at (951)782-4904, or by email at ann.sturdivant@waterboards.ca.gov. All legal questions should be addressed to Vanessa Young at (916)341-5276 or vanessa.young@waterboards.ca.gov.

Sincerely,



Michael J. Adackapara
Division Chief

Enclosure: Proposed CAO No. R8-2014-0032
Notice of Public Hearing and Proposed Hearing Procedures

cc w/enclosures:

Regional Board
Regional Water Quality Control Board – Kurt Berchtold, Executive Officer (Advisory Team)
State Water Resources Control Board, OCC – David Rice (Advisory Team Attorney)
State Water Resources Control Board, OE – Vanessa Young (Prosecution Team Attorney)

Santa Ana Regional Water Quality Control Board

**NOTICE OF PUBLIC HEARING
AND
HEARING PROCEDURE
FOR THE PROPOSED CLEANUP AND ABATEMENT ORDER
ORDER NO. R8-2014-0032**

**Issued To
BAZZ HOUSTON COMPANY
AND
CHESTER HOUSTON JR. TRUST
AND
CHAM-CAL ENGINEERING CO.
AND
WESTERN AVENUE ASSOCIATES, L.P.**

**Regarding Properties Located
At**

**12700 Western Avenue
City of Garden Grove
Orange County
And
12722 Western Avenue
City of Garden Grove
Orange County**

HEARING SCHEDULED FOR APRIL 25, 2014

PLEASE READ THIS HEARING PROCEDURE CAREFULLY. FAILURE TO COMPLY WITH THE DEADLINES AND OTHER REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF YOUR DOCUMENTS AND/OR TESTIMONY.

Background

The Bazz Houston Company (Bazz Houston) began operating a metal parts fabricating facility on the 12700 Western Avenue Property (Bazz Houston Site) in the late 1970s. In 1976, the owners of Bazz Houston sold the undeveloped, southern portion of their property to the owners of Cham-Cal Engineering (Cham-Cal), where Cham-Cal established its current manufacturing operation. Both Cham-Cal and Bazz Houston are known to have stored and used tetrachloroethene (PCE) and other chlorinated solvents in their operations through the late 1980s.

Between 1998 and 2003, Bazz Houston conducted numerous phases of environmental investigation and remediation, during which PCE was detected in the subsurface of the Bazz Houston Site at concentrations exceeding 950 milligrams per kilogram (mg/kg) in soil and 10,000 micrograms per liter ($\mu\text{g/L}$) in groundwater. In 2003, Bazz Houston entered into a

voluntary agreement under the Water Board's Oversight Cost Reimbursement Program. Between 2003 and the present, Regional Board staff have overseen the investigation and remediation of contaminants on the Bazz Houston Site, and the delineation of contaminant impacts on offsite properties located east, west, and north of the Bazz Houston Site. Characterization of PCE impacts to groundwater south of the Bazz Houston Site has been hampered by difficulties in obtaining access to the Cham-Cal Site. The available data indicate that contaminant-impacted groundwater has migrated south from the Bazz Houston Site and comingled with contaminant-impacted groundwater on the Cham-Cal Site.

In 2007, Regional Board staff obtained records of Cham-Cal inspections conducted by the Orange County Health Care Agency during the period between 1986 and 1991. The inspection records documented the storage, use, disposal, and discharge of hazardous chemicals, including PCE, on the Cham-Cal Site. In September 2010, soil, soil gas, and groundwater samples were collected by Bazz Houston from borings on the Cham-Cal Site. PCE was detected on the Cham-Cal Site at concentrations as high as 2,650 micrograms per kilogram ($\mu\text{g}/\text{kg}$) in soil, 14,500 $\mu\text{g}/\text{L}$ in soil vapor, and 5,490 $\mu\text{g}/\text{L}$ in groundwater. In July 2010 and July 2012, Regional Board staff requested that Cham-Cal to enter into a voluntary cost oversight reimbursement agreement, in accordance with California Water Code section 13365, but received no response to either request.

The concentrations of PCE within the comingled plume of impacted groundwater exceed the maximum contaminant level for PCE in drinking water (5 $\mu\text{g}/\text{L}$) found in Title 22 of the California Code of Regulations.

Purpose of Hearing

The purpose of the hearing is to consider relevant evidence and argument regarding the proposed Cleanup and Abatement Order, Order No. R8-2014-0032 (Order). At the hearing, the Regional Board will consider whether to adopt the Order as proposed, amend the Order or reject the Order. The details of the public hearing are as follow:

Date: April 25, 2014
Time: 9:00 a.m. or as soon thereafter as practicable, or as announced in the Regional Board meeting agenda.
Location: Orange County Water District
18700 Ward Street
Fountain Valley, CA 92708

The Staff Report and an agenda for the meeting will be posted on the Regional Board's website at least ten days prior to the meeting at:

http://www.waterboards.ca.gov/santaana/board_info/agendas/index.shtml.

The agenda will include the final location, and the start time for the meeting. Since the exact start time for this item is unpredictable, all interested parties are urged to be present from the start of the Board meeting.

Hearing Procedures

The hearing will be conducted in accordance with this hearing procedure. A copy of the general procedures governing adjudicatory hearings before the Regional Board may be found at

Title 23 of the California Code of Regulations, Section 648 et seq., and is available at <http://www.waterboards.ca.gov>, or upon request. In accordance with Section 648, subdivision (d), any procedure not provided by this Hearing Procedure is deemed waived. Except as provided in Section 648 and herein, subdivision (b), Chapter 5, of the Administrative Procedures Act (commencing with Section 11500 of the Government Code) does not apply to this hearing.

Hearing Participants

Participants in this proceeding are designated as either "parties" or "interested persons." Designated parties to the hearing may present evidence and cross-examine witnesses, and are subject to cross-examination. Interested persons generally may not submit evidence, cross-examine witnesses, or be subject to cross-examination, but may present policy statements. Policy statements may include comments on any aspect of the proceeding, but may not include evidence (e.g., photographs, eye-witness testimony, monitoring data, etc.). Interested persons who would like to submit evidence may do so if the evidence is submitted in accordance with the procedures and deadlines for submitting evidence described below. Interested persons who present evidence may be subject to cross-examination. Both designated parties and interested persons may be asked to respond to clarifying questions from the Regional Board, staff or others, at the discretion of the Regional Board.

The following participants are hereby designated as parties in this proceeding:

- (1) Regional Board Prosecution Team (Represented by: Michael Adackapara, Division Chief (michael.adackapara@waterboards.ca.gov); Ann Sturdivant, Section Chief (ann.sturdivant@waterboards.ca.gov); Tomas Eggers, Case Manager (tomas.eggers@waterboards.ca.gov); and Vanessa Young, Prosecution Team Attorney (vanessa.young@waterboards.ca.gov))
- (2) Bazz Houston Company
- (3) Chester Houston Jr. Trust
- (4) Cham-Cal Engineering Co.
- (5) Western Avenue Associates, L.P.

The following parties will be part of the Advisory Team, advising the Regional Board on this matter: Kurt Berchtold (kurt.berchtold@waterboards.ca.gov), Regional Board Executive Officer; and David Rice (david.rice@waterboards.ca.gov), Attorney for the Advisory Team.

Primary Contacts

Advisory Team:

David Rice (email: david.rice@waterboards.ca.gov)
Phone: 916-341-5182
State Water Resources Control Board
1001 I Street, Floor 22
Sacramento, CA 95814

Kurt Berchtold (email: kurt.berchtold@waterboards.ca.gov)

Phone: 951-782-3286
Santa Ana Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, CA 92501-3348

Prosecution Team: **Tomas Eggers, Case Manager**
(email: tomas.eggers@waterboards.ca.gov)
Phone: 951-782-3237
Santa Ana Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, CA 92501-3348

Dischargers:

Bazz Houston Company
c/o Mr. Javier Castro, President and Chief
Operation Officer
12700 Western Avenue
Garden Grove, CA 92841
javier.castro@bazz-houston.com

Cham-Cal Engineering Co.
c/o Mr. Edward Chambers, President
12722 Western Avenue
Garden Grove, CA 92841

Chester Houston Jr. Trust
c/o Mr. Chet Houston
12700 Western Avenue
Garden Grove, CA 92841

Western Avenue Associates, L.P.
c/o Mr. Edward Chambers
12722 Western Avenue
Garden Grove, CA 92841

Separation of Functions

To help ensure the fairness and impartiality of this proceeding, the functions of those who will act in a prosecutorial role by presenting evidence for consideration by the Regional Board (Prosecution Team) have been separated from those who will provide advice to the Regional Board (Advisory Team).

Any members of the Advisory Team who normally supervise any members of the Prosecution Team are not acting as their supervisors in this proceeding, and vice versa. Members of the Prosecution Team may have acted as advisors to the Regional Board in other, unrelated matters, but they are not advising the Regional Board in this proceeding. Members of the Prosecution Team have not had any ex parte communications with the members of the Regional Board or the Advisory Team regarding this proceeding.

Ex Parte Communications

The designated parties and interested persons are forbidden from engaging in ex parte communications regarding this matter with members of the Advisory Team or members of the Regional Board. An ex parte contact is any written or verbal communication pertaining to the investigation, preparation, or prosecution of the Complaint between a member of a designated party or interested person on the one hand, and a Regional Board member or an Advisory Team member on the other hand, unless the communication is copied to all other designated parties (if written) or made in a manner open to all other designated parties (if oral).

Communications regarding non-controversial procedural matters are not ex parte contacts and are not restricted. Communications among one or more designated parties and interested persons themselves are not ex parte contacts.

Hearing Time Limits

To ensure that all participants have an opportunity to participate in the hearing, the following time limits shall apply: Each designated party shall have a combined 20 minutes to present evidence, cross-examine witnesses (if warranted), and provide a closing statement; and each interested person shall have 3 minutes to present a non-evidentiary policy statement. Participants with similar interests or comments are requested to make joint presentations, and participants are requested to avoid redundant comments. Participants who would like additional time must submit their request to the Advisory Team so that it is received no later than April 7, 2014. Additional time may be provided at the discretion of the Advisory Team (prior to the hearing) or the Regional Board Chair (at the hearing) upon a showing that additional time is necessary.

Submission of Evidence and Policy Statements

The following information must be submitted in advance of the hearing:

1. All evidence (other than witness testimony to be presented orally at the hearing) that the Designated Party would like the Regional Board to consider. Evidence and exhibits already in the public files of the Regional Board may be submitted by reference as long as the exhibits and their location are clearly identified in accordance with Title 23, CCR, Section 648.3.
2. All legal and technical arguments or analysis.
3. The name of each witness, if any, whom the Designated Party intends to call at the hearing, the subject of each witness' proposed testimony, and the estimated time required by each witness to present direct testimony.
4. The qualifications of each expert witness, if any.

The Prosecution Team shall submit 10 hard copies of its information and one electronic copy of the information to Advisory Team Member Kurt Berchtold so that it is received by 5 p.m. on March 24, 2014.

The remaining designated parties shall submit 10 hard copies of their information and one electronic copy of the information to Advisory Team Member Kurt Berchtold so that they are received by 5 p.m. on April 7, 2014.

Any designated party that would like to submit information that rebuts the information previously submitted by other designated parties shall submit 10 hard copies of their rebuttal information and one electronic copy of the information to Advisory Team Member Kurt Berchtold so that they are received by 5 p.m. on April 14, 2014. Rebuttal information shall be limited to the scope of the information previously submitted by the other designated parties. Rebuttal information that is not responsive to information previously submitted by other designated parties may be excluded.

If the total amount of information submitted by any party is less than 15 pages, that party may submit the information solely by e-mail, rather than in hard copy. In addition to the foregoing,

each designated party shall submit (1) one copy of the above information to each of the other designated parties so that it is received by 5 p.m. on the deadline specified above. Interested persons who would like to submit written non-evidentiary policy statements are encouraged to submit them to the Advisory Team as early as possible, but no later than April 14, 2014. Interested persons do not need to submit written non-evidentiary policy statements in order to speak at the hearing.

In accordance with Title 23, California Code of Regulations, Section 648.4, the Regional Board endeavors to avoid surprise testimony or evidence. Absent a showing of good cause and lack of prejudice to the parties, the Regional Board may exclude evidence and testimony that is not submitted in accordance with this hearing procedure. Excluded evidence and testimony will not be considered by the Regional Board, and will not be included in the administrative record for this proceeding. Power Point and other visual presentations may be used at the hearing, but their content may not exceed the scope of other submitted written material. A copy of such material intended to be presented at the hearing must be submitted to the Advisory Team by April 21, 2014 for inclusion in the administrative record. Additionally, any witness who has submitted written testimony for the hearing shall appear at the hearing and affirm that the written testimony is true and correct, and shall be available for cross-examination.

Request for Pre-hearing Conference

A designated party may request that a pre-hearing conference be held before the hearing in accordance with Water Code Section 13228.15. A pre-hearing conference may address any of the matters described in subdivision (b) of Government Code Section 11511.5. Requests must contain a description of the issues proposed to be discussed during that conference, and must be submitted to the Advisory Team, with a copy to all other designated parties, as early as practicable.

Evidentiary Objections

Any designated party objecting to written evidence or exhibits submitted by another designated party must submit a written objection to the Advisory Team and all other designated parties so that it is received by 5 p.m. on April 14, 2014. The Advisory Team will notify the parties about further action to be taken on such objections and when that action will be taken.

Evidentiary Documents and File

The Order and evidentiary documents submitted in accordance with this Hearing Procedure shall be considered part of the administrative record for this matter and may be inspected or copied at the Regional Board office at 3737 Main Street, Suite 500, Riverside, CA 92501 by contacting August Carter (email: august.carter@waterboards.ca.gov; phone: 951-782-7961). Other submittals received for this proceeding will be added to the administrative record absent a contrary ruling by the Regional Board Chair. Many of these documents are also posted on-line at: http://www.waterboards.ca.gov/santaana/public_notices/enforcement_actions.shtml.

Although the web page is updated regularly, to assure access to the latest information, you may contact Tomas Eggers (tomas.eggers@waterboards.ca.gov).

Questions

Questions concerning this proceeding may be addressed to the Advisory Team Attorney, David Rice (david.rice@waterboards.ca.gov).

IMPORTANT DEADLINES

- | | |
|-------------------|--|
| February 21, 2014 | Prosecution Team issues proposed Cleanup and Abatement Order, and publishes Public Hearing Notice and Proposes Hearing Procedures |
| March 3, 2014 | Deadline for objections, if any, to Hearing Procedures |
| March 3, 2014 | Deadline for requests for designated party status |
| March 10, 2014 | Advisory Team issues decision on objections, if any, to Hearing Procedure; Hearing Procedure becomes final |
| March 10, 2014 | Deadline to oppose requests for designated party status |
| March 21, 2014 | Advisory Team issues decision on requests for designated party status, if any |
| March 24, 2014 | Prosecution Team's deadline for submission of all information required under "Submission of Evidence and Policy Statements" |
| April 7, 2014 | Remaining Designated Parties' deadline for submission of all information required under "Submission of Evidence and Policy Statements" |
| April 7, 2014 | Deadline for requests of additional time |
| April 14, 2014 | All Designated Parties' deadline for rebuttal information and evidentiary objections, if any |
| April 14, 2014 | Interested Persons Comments Due |
| April 21, 2014 | Deadline for submission of hearing presentation material |
| April 25, 2014 | Public Hearing |

State of California
California Regional Water Quality Control Board
Santa Ana Region

Proposed Cleanup and Abatement Order No. R8-2014-0032

For

Bazz Houston Company
12700 Western Avenue
City of Garden Grove

And

Chester Houston Jr. Trust
And

Cham-Cal Engineering Co.
12722 Western Avenue
City of Garden Grove

And

Western Avenue Associates, L.P.

The California Regional Water Quality Control Board, Santa Ana Region (hereinafter Regional Board), finds that:

1. Legal and Regulatory Authority: This Order conforms to and implements policies and requirements of the Porter-Cologne Water Quality Control Act (Division 7, commencing with Water Code section 13000) including: (1) sections 13267 and 13304; (2) applicable State and federal regulations; (3) all applicable provisions of Statewide Water Quality Control Plans adopted by the State Water Resources Control Board (State Board) and the *Water Quality Control Plan, Santa Ana River Basin* (Basin Plan) adopted by the Regional Board including beneficial uses, water quality objectives, and implementation plans; (4) State Board policies and regulations, including State Board Resolution No. 68-16 (*Statement of Policy with Respect to Maintaining High Quality of Waters in California*), Resolution No. 88-63 (*Sources of Drinking Water*), and Resolution No. 92-49 (*Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under California Water Code Section 13304*); and (5) relevant standards, criteria, and advisories adopted by other State and federal agencies.

2. Unauthorized Discharge of Waste:

- a. The Bazz Houston Company (hereinafter Bazz Houston) is a metal parts fabricating facility, located at 12700 Western Avenue, Garden Grove, Orange County (hereinafter the Bazz Houston Site).
- b. The legal description of the Bazz Houston Site is Parcel Number 215-033-01, Book 57, Page 27, part A, 12700 Western Avenue, Garden Grove, County of Orange, State of California. It is located at 33°46'42.47" N latitude and 118°00'01.02" W longitude. Bazz Houston purchased the parcel in 1973 and the current owner of the property is the Chester Houston Jr. Trust.

- c. Cham-Cal Engineering Co. (hereinafter Cham-Cal) is a manufacturer of heavy duty mirrors, brackets, and accessories, located at 12722 Western Avenue, Garden Grove, Orange County (hereinafter the Cham-Cal Site). The Cham-Cal Site is located downgradient of the Bazz Houston Site.
- d. The legal description of the Cham-Cal property is Parcel Number 215-033-03, Book 57, Page 27, part B, 12722 Western Avenue, Garden Grove, County of Orange, State of California. It is located at 33°46'39.52" N latitude and 118°00'01.19" W longitude. The property was purchased from Bazz Houston by Chambers Property Management Company in 1976 which has since been renamed and is currently known as Western Avenue Associates, L.P.
- e. Both the Bazz Houston and the Cham-Cal Sites are located within the Orange County Groundwater Management Zone. Groundwater exists beneath the Sites at a depth of approximately 16 feet below ground surface. The beneficial uses of the groundwater within the Orange County Groundwater Management Zone include:
 - i. Municipal and Domestic Supply,
 - ii. Agricultural Supply,
 - iii. Industrial Service Supply, and
 - iv. Industrial Process Supply.
- f. Both the Bazz Houston and the Cham-Cal Sites are known to have used tetrachloroethylene (PCE) and other chemicals in their operations.
- g. In November 1998, DCI Services, Inc. (DCI) performed a Phase I Environmental Site Assessment of the Bazz Houston Site. DCI noted three areas where the release of liquid wastes to the subsurface was suspected: a drum storage area, a PCE vapor degreaser area, and a metal-cuttings area.
- h. Between 1998 and 2000, Bazz Houston conducted numerous phases of environmental investigation and remediation of PCE-impacted soil and groundwater. These tasks were conducted without regulatory oversight. In 2003, Bazz Houston submitted results from their initial investigations at the Bazz Houston Site (1998-2000) to Regional Board staff. The principal contaminant source area identified at the Bazz Houston Site was the former location of the vapor degreaser. The highest concentration of PCE reported in the initial investigation of soil at the Bazz Houston Site by ATC Associates, Inc. (ATC, 1999) was 950 milligrams per kilogram (mg/kg) of PCE. The highest concentration of PCE reported in the initial groundwater investigations, 10,000 micrograms per liter ($\mu\text{g/L}$), was reported by LeMontagne Engineering Services (LES), in 1999.
- i. Bazz Houston entered into the Water Board's Oversight Cost Reimbursement Program in 2003. The initial investigations conducted under Regional Board staff oversight were implemented by Jorgenson Environmental Compliance Services, Inc.

(Jorgenson), from December 2004 to March 2006. Soil and groundwater samples collected during the Jorgenson investigations were collected mostly from borings that were advanced on the Bazz Houston Site; however, three borings were also advanced on the Cham-Cal Site in March 2006.

- j. The March 2006 investigation identified PCE impacted groundwater at both Sites, with concentrations of PCE ranging from 6 to 864 micrograms per liter ($\mu\text{g/L}$). PCE impacted soil was also identified at both Sites. Soil samples collected from the Bazz Houston Site contained concentrations of PCE ranging from 6 to 11,200 $\mu\text{g/kg}$, while soil samples collected from the Cham-Cal Site were found to have concentrations of PCE ranging from 7 to 1,260 $\mu\text{g/kg}$.
- k. From March 2006 to September 2010, persistent difficulties in obtaining access prevented Bazz Houston from completing the investigations that were proposed to be conducted south of the Bazz Houston Site, at the Cham-Cal Site. As a result of these difficulties, Jorgenson, on behalf of Bazz Houston, proceeded with soil and groundwater investigations on the periphery of the Bazz Houston Site to the north, east, and west. Following the completion of the limited soil and groundwater investigations by Jorgenson in February 2009, Bazz Houston had completely delineated the lateral extent of PCE impacts on the Bazz Houston Site and all adjacent properties except the Cham-Cal Site to the south.
- l. In 2007, Jorgenson provided Regional Board staff with records of Cham-Cal inspections that were conducted by staff from the Orange County Health Care Agency (County Health) during the period between March 20, 1986 and April 2, 1991. The County Health records documented the use, storage, and disposal of hazardous chemicals, including PCE, at the Cham-Cal Site. Records indicate that in 1986, County Health staff observed at least 15 drums of waste and, on at least one occasion, PCE was observed to be leaking from a badly rusted drum at the Cham-Cal Site. Records also indicate that PCE, waste electropolish sludge, and waste oil were stored at the Cham-Cal Site in open containers and in severely deteriorated drums.
- m. On April 13, 2009, Jorgenson submitted the "Feasibility Study for Interim Remediation of Soil and Groundwater" (Feasibility Report), dated March 2009. The Feasibility Report summarized the results of soil and groundwater investigations that had been completed by Jorgenson, and evaluated the potential interim remedies for the PCE contamination which could be implemented without access to the Cham-Cal Site or full characterization of the extent of contamination. After considering remedial alternatives, Jorgenson selected soil vapor extraction (SVE) and ex-situ liquid-phase carbon adsorption. Regional Board staff concurred with a proposal to conduct a pilot test of the SVE remedy for soil and groundwater, and a groundwater pumping test, on July 21, 2009.
- n. In addition to the interim remediation activities, Bazz Houston also continued its efforts to gain access to the Cham-Cal Site, for the purpose of conducting additional soil and groundwater investigation. Regional Board staff assisted with these efforts by contacting Mr. Chambers, the owner of Cham-Cal, on multiple occasions.

- o. On February 1, 2010, Regional Board staff sent Mr. Chambers a “comfort letter” at his request. The letter stated that, as a matter of general policy, the Regional Board does not pursue enforcement actions against innocent property owners, and would not do so against Cham-Cal, provided that: a) Cham-Cal did not exacerbate or contribute to the existing pollution; b) Cham-Cal agreed to cooperate with remedial activities by allowing all necessary access to the Cham-Cal Site; and c) there were other viable responsible parties willing and able to conduct any necessary remediation.
- p. In response to the comfort letter, Cham-Cal’s attorney, Ms. Maria Rohaidy, requested an “indemnification letter” against any damage to Cham-Cal property resulting from the access being sought by Bazz Houston. When informed that the Regional Board does not provide letters of indemnity against property damage, Ms. Rohaidy stated that Cham-Cal would not allow access to the Cham-Cal buildings, but would allow drilling on selected peripheral areas of the Cham-Cal Site. Because the buildings are situated in areas of the Cham-Cal Site where sampling was necessary, further investigations at the Cham-Cal Site were delayed.
- q. On May 4, 2010, Mr. Chambers agreed to offer full access and cooperation to Bazz Houston, for the purpose of collecting samples in accordance with the Jorgenson March 2, 2010 workplan. However, additional difficulties with the access agreement resulted in further postponement of the investigation.
- r. On July 26, 2010, Regional Board staff sent a letter to Mr. Chambers, requesting that he agree to conduct a soil and groundwater investigation on the Cham-Cal property, or allow Bazz Houston access to conduct the investigation by August 9, 2010.
- s. On July 30, 2010, Regional Board staff sent an Oversight Cost Reimbursement letter to Mr. Chambers, requesting that he enter into a voluntary agreement to reimburse the Regional Board for the cost of Regional Board staff’s oversight of the investigation of contamination that is present at the Cham-Cal Site as a result of the unauthorized discharge(s) of wastes by Cham-Cal. The letter cited the County Health’s inspection reports (dated 1986-1991, which had been received by Regional Board staff in 2007) as evidence supporting the need for the investigation.
- t. On August 3, 2010, Regional Board staff received a letter from Cham-Cal’s attorney, Steven Silverstein, stating that Cham-Cal would agree to allow implementation of Jorgenson’s March 2, 2010 workplan for investigation of groundwater on the Cham-Cal Site. Neither Mr. Chambers nor Mr. Silverstein acknowledged the Regional Board’s request in the Oversight Cost Reimbursement letter.
- u. On September 9, 2010, Jorgenson was allowed access to collect soil, soil vapor, and groundwater samples from 11 boring locations at the Cham-Cal Site, in accordance with Jorgenson’s March 2, 2010 workplan. According to the subsequent report (Jorgenson, 2010), the highest concentration of VOCs in the soil gas samples collected from within the footprints of the Cham-Cal buildings was 14,500 µg/L of PCE, while the highest concentration of PCE found in soil gas samples collected from the subsurface between the Bazz Houston and Cham-Cal Sites was 2,950 µg/L. PCE

was found in 16 of the 23 soil matrix samples that were collected from the Cham-Cal Site. The median concentration of PCE found in the Cham-Cal soil samples was 34 µg/kg and the maximum, 2,650 µg/kg, was found at a depth of 10 feet below the footprint of the eastern Cham-Cal building. PCE was found in all of the groundwater samples that were collected from soil borings at the Cham-Cal Site, with PCE concentrations ranging from 6 µg/L to 5,490 µg/L, and a median concentration of 1,160 µg/L. These concentrations exceed the maximum contaminant level (MCL) for PCE in drinking water (5 µg/L) found in Title 22 of the California Code of Regulations.

- v. Based on the depths of the multiple detections of PCE in soil and soil vapor samples at the Cham-Cal Site, and the distance of the Cham-Cal sampling locations relative to the known discharge locations on the Bazz Houston Site, it is not likely that all of the PCE found in shallow soil and groundwater at the Cham-Cal Site originated at the Bazz Houston Site. In conjunction with the County Health inspection records for Cham-Cal, the presence of PCE in the shallow soil and soil vapor at the Cham-Cal Site is a strong indication that unauthorized discharge(s) of PCE-containing waste by Cham-Cal occurred at the Cham-Cal Site.
 - w. Based on the available information, Regional Board staff concludes that volatile organic compounds were discharged to soil and groundwater by the respective operators of both the Bazz Houston and Cham-Cal Sites.
 - x. Past operations by Bazz Houston and Cham-Cal have caused or permitted wastes to be discharged into waters of the State and are creating, have created, or are threatening to create, a condition of nuisance or pollution, and have impacted, or threaten to impact, the quality of groundwater, and the beneficial uses of the Orange County Groundwater Management Zone.
- 3. Persons Named as Responsible Parties:** Bazz Houston is named as a Responsible Party because it operated a vapor degreaser, used and stored chlorinated solvents, including PCE, at the Bazz Houston Site from the 1980's until use of PCE was discontinued in 1998. During this time period, a discharge of PCE to soil and groundwater occurred. PCE is not naturally occurring and is a waste as defined in Water Code section 13050(d).

Chester Houston Jr. Trust is named as a Responsible Party as the property owner of the Bazz Houston Site.

Cham-Cal is named as a Responsible Party because it used chlorinated solvents at the Cham-Cal Site and was observed to store electropolishing waste and waste chlorinated solvents in poorly maintained, open, leaking, or damaged containers for long periods, during which at least one discharge of PCE to soil and groundwater on the Cham-Cal Site occurred.

Western Avenue Associates, L.P. is named as a Responsible Party as the property owner of the Cham-Cal Site.

Based upon the groundwater quality data that has been collected over the past 11 years at the

Bazz Houston Site and Cham-Cal Site, it appears that the plume of PCE-impacted groundwater beneath the Cham-Cal and Bazz Houston Sites is the result of the comingling of contamination caused by these independent releases of PCE by both Bazz Houston and Cham-Cal on their respective Sites. It is therefore necessary and appropriate, pursuant to Water Code section 13304, that Bazz Houston, the Chester Houston Jr. Trust, Cham-Cal and Western Avenue Associates, L. P. be named in this order as parties responsible for the investigation and cleanup of the discharges to soil, and the comingled groundwater contaminant plume, and abatement of the effects thereof.

- 4. Water Quality Standards:** The Sites overlie the Orange County Groundwater Management Zone, the beneficial uses of which include: (1) Municipal and domestic supply; (2) Agricultural supply; (3) Industrial service supply; and (4) Industrial process supply.

The Basin Plan contains numeric water quality objectives¹ for chemical constituents to protect groundwater designated for MUN use. The Basin Plan further states, "All waters of the region shall be maintained free of substances in concentrations which are toxic, or that produce detrimental physiological responses in human, plant, animal or aquatic life." The primary maximum contaminant levels (MCLs)² established by the California Department of Health Services in Title 22 of the California Code of Regulations are protective of the MUN beneficial use. Groundwater concentrations of PCE at the Bazz Houston and Cham-Cal properties are not in conformance with the water quality needed to support MUN uses of the groundwater, creating a condition of pollution and nuisance in waters of the State.

- 5. Protection of Human Health:** Due to the high concentrations of PCE and trichloroethene (TCE) in groundwater beneath the Cham-Cal and Bazz Houston Sites, there is a risk to human health from soil vapor intrusion into the indoor air of the buildings at the Bazz Houston and Cham-Cal Sites, and downgradient properties. The concentrations of PCE and TCE in the soil vapor beneath the Cham-Cal and Bazz Houston properties exceed the California Human Health Screening Levels (CHHSLs) for indoor air quality for commercial properties, as set forth by the California Office of Environmental Health Hazard Assessment. It is necessary to conduct a human health risk assessment to evaluate the potential impacts to workers and occupants of the buildings from migration of VOCs into the indoor air, on the Sites and in areas overlying the plume.
- 6. Basis of Cleanup and Abatement Order:** Water Code section 13304 contains the cleanup and abatement authority of the Regional Board. Water Code section 13304 requires a person to clean up waste and/or abate the effects of the waste discharge if so ordered by a regional board in the event there has been a discharge in violation of waste discharge requirements, or

¹"Water quality objectives" are defined in Water Code section 13050(h) as "the limits or levels of water quality constituents or characteristics which are established for the reasonable protection of beneficial uses of water or the prevention of nuisance within a specific area."

²MCLs, maximum contaminant levels, are public health-protective drinking water standards to be met by public water systems. MCLs take into account not only chemicals' health risks but also factors such as their delectability and treatability, as well as the costs of treatment. Primary MCLs can be found in Title 22 California Code of Regulations (CCR) sections 64431 - 64444. Secondary MCLs address the taste, odor, or appearance of drinking water, and are found in 22 CCR section 64449.

if a person has caused or permitted 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. Therefore, based on the previous findings, the Regional Board is authorized to order Responsible Parties to cleanup and abate the effects of the waste discharges.

7. **Basis for Requiring Reports:** Water Code section 13267 provides that the Regional Board may require dischargers, past dischargers, or suspected dischargers to furnish those technical or monitoring reports as the Regional Board may specify, provided that the burden, including costs, of these reports, shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. In requiring the reports, the Regional Board must provide the person with a written explanation with regard to the need for the reports, and identify the evidence that supports requiring that person to provide the reports.
8. **Need for Technical and Monitoring Reports:** Technical reports and Monitoring reports required by this Order are needed to provide information to the Regional Board regarding (a) the nature and extent of the discharge, (b) the nature and extent of pollution conditions in State waters created by the discharge, (c) the threat to public health posed by the discharge, and (d) appropriate cleanup and abatement measures necessary to restore the beneficial uses of the impacted State waters. The reports will enable the Regional Board to determine the vertical and lateral extent of the discharge, ascertain if the condition of pollution poses a threat to human health in the vicinity of the Site, and provide technical information to determine what cleanup and abatement measures are necessary to bring the Site into compliance with applicable water quality objectives. Based on the nature and possible consequences of the discharges (as described in Findings No. 2.a through 2.x, above) the burden of generating and providing the required reports bears a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
9. **Cost Recovery:** Pursuant to California Water Code section 13304, the Regional Board is entitled to, and will seek reimbursement for, all reasonable costs actually incurred by the Regional Board to investigate unauthorized discharges of waste and to oversee cleanup of such waste, abatement of the effects thereof, or other remedial action, required by this Order.
10. **State Board Policies:** The State Board adopted Resolution No. 92-49, the *Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under Water Code Section 13304*. This Resolution sets forth the policies and procedures to be used during an investigation or cleanup of a nuisance site and requires that cleanup levels be consistent with State Board Resolution No. 68-16, the *Statement of Policy with Respect to Maintaining High Quality of Waters in California*. Resolution No. 92-49 and the Basin Plan establish the cleanup levels to be achieved. Resolution No. 92-49 requires the waste to be cleaned up to background, or if that is not reasonable, to an alternative level that is the most stringent level that is economically and technologically feasible in accordance with Title 23, CCR section 2550.4. Any alternative cleanup level greater than background must (1) be consistent with the maximum benefit for the people of the state; (2) not unreasonably affect present and anticipated beneficial use of such water; and (3) not result in water quality less than that prescribed in the Basin Plan and applicable Water Quality Control Plans and Policies of the State Board.

- 11. California Environmental Quality Act (CEQA) Compliance:** The issuance of this Order is an enforcement action taken by a regulatory agency and is categorically exempt from the provisions of CEQA pursuant to section 15321(a) (2), Chapter 3, Title 14 of the California Code of Regulations. This Order requires submittal of detailed workplans that address cleanup activities. The proposed activities under the workplans are not yet known, but implementation of the workplans may result in significant physical impacts to the environment that must be evaluated under CEQA. The appropriate lead agency will address the CEQA requirements prior to implementing any workplan that may have a significant impact on the environment.
- 12. Qualified Professionals:** Reliance on qualified professionals promotes proper planning, implementation, and long-term cost-effectiveness of investigation, and cleanup and abatement activities. Professionals should be qualified, licensed where applicable, and competent and proficient in the fields pertinent to the required activities. California Business and Professions Code sections 6735, 7835, and 7835.1 require that engineering and geologic evaluations and judgments be performed by or under the direction of registered professionals.

IT IS HEREBY ORDERED that, pursuant to Section 13267 and 13304, Division 7, of the California Water Code, Cham-Cal, Chester Houston Jr. Trust, Bazz Houston, and Western Avenue Associates, L.P. shall comply with the following directives:

- 13.** Submit a workplan and proposed schedule, within 45 days following the adoption of this Order, for conducting an investigation to fully delineate the lateral and vertical boundaries of contaminant impacts to soil, soil vapor, and groundwater caused by the releases of wastes at the Cham-Cal and Bazz Houston sites.
- 14.** Submit a workplan proposing the installation of a comprehensive groundwater monitoring network for the purpose of monitoring the concentration and migration of contaminants in the groundwater plume beneath the Cham-Cal and Bazz Houston Sites. The monitoring network will be subject to the approval of the Executive Officer of the Regional Board.
- 15.** Upon installation of an approved groundwater monitoring network, initiate a quarterly groundwater monitoring program that shall be conducted in accordance with the following schedule:

Groundwater Monitoring Period	Report Due Date
January to March	April 15
April to June	July 15
July to September	October 15
October to December	January 15

This schedule may be modified, with the written approval of the Executive Officer.

16. Conduct all field work necessary to define the extent of the groundwater contamination, as directed by the Executive Officer, until the extent of the plume is fully delineated.
17. Based upon the results from items 13, 14, 15, and 16, (above), submit a feasibility study and remedial action plan (FS/RAP), with a proposed implementation schedule, for the protection of human health and the remediation of the soil, soil vapor, and groundwater contamination. The FS/RAP and schedule shall be subject to approval of the Executive Officer.
18. Implement any necessary maintenance, improvements and repairs to the remediation system(s), as directed by the Executive Officer.
19. Conduct the necessary remediation activities, and report the progress of such activities in the quarterly monitoring reports that are submitted as per Paragraph 15, above, to the Executive Officer.
20. All references to the Executive Officer in this Order shall include his delegate.
21. Failure to comply with requirements of this Order may subject the Responsible Parties to enforcement action, including but not limited to: imposition of administrative civil liability, pursuant to Water Code sections 13268 and 13350, in an amount not to exceed \$5,000 for each day in which the violation occurs under Water Code sections 13304 or 13350 or referral to the Attorney General for injunctive relief or civil or criminal liability.
22. Any person affected by this action of the Regional Board may petition the State Board to review the action in accordance with section 13320 of the Water Code and CCR Title 23 section 2050. The petition must be received by the State Board (Office of Chief Counsel, P.O. Box 100, Sacramento, California 95812) within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request.

I, Kurt V. Berchtold, Executive Officer, do hereby certify that the foregoing is a full, true and correct copy of an Order adopted by the California Regional Water Quality Control Board, Santa Ana Region, on April 25, 2014.

Kurt V. Berchtold
Executive Officer