

STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

STAFF SUMMARY REPORT (Jolanta Uchman)
MEETING DATE: November 18, 2015

ITEM: 5D

SUBJECT: American Linen Supply Company, Maryatt Investments, Inc., Charles Maryatt, and David Maryatt, for the property located at 290 South Maple Avenue, South San Francisco, San Mateo County – Adoption of Site Cleanup Requirements

CHRONOLOGY: The Board has not previously considered this matter.

DISCUSSION: The Revised Tentative Order (Appendix A) would require the current property owners and previous property owners and operators to characterize the extent of contaminants in soil and groundwater, carry out interim remedial actions, and prepare a final cleanup plan to address soil and groundwater contamination at the 290 South Maple Avenue site located in South San Francisco.

The property was developed in 1958 and has been occupied since then by commercial laundry businesses. Dry cleaning and use of tetrachloroethene (PCE) containing products occurred from approximately 1958 until 1993. After 1993, laundry cleaning on the property has involved water-based cleaning products. Members of the Maryatt family have owned the site since 1958. Charles Maryatt and Maryatt Investments, Inc., are the current owners of the property.

Initial site investigations conducted in 2004 confirmed that a significant release of PCE had occurred and that elevated concentrations of PCE and its breakdown products were present in soil and groundwater at the site. Maximum concentrations of PCE in groundwater, soil, and soil vapor substantially exceed this Board's environmental screening levels. This release may pose a threat to nearby municipal groundwater wells owned and operated by the San Francisco Public Utilities Commission. The site is also adjacent to another solvent-release site located at 416 Browning Way, and the two groundwater plumes are likely commingled. The Board adopted a site cleanup order for the 416 Browning Way site earlier this year.

The tasks set forth in the Revised Tentative Order are necessary to fully define the extent of groundwater and soil impacts and develop and implement response actions to prevent further migration of impacted groundwater, protect public health, and restore water quality.

We circulated the initial tentative order for public comment in September 2015 and received comments on behalf of Charles Maryatt and Maryatt Investments, Inc. (Appendix B). Our response to comments is contained in Appendix C.

A key comment is to relax several of the task deadlines. We have made several changes to the tentative order in response to these comments, including changes to a subset of the task deadlines and changes to findings regarding site history, remedial investigation, and adjacent sites. These changes address some but not all of the comments. We have provided the Revised Tentative Order to Charles Maryatt and Maryatt Investments, Inc. We met with their representatives on November 9, 2015, to further discuss their comments and reached consensus. We expect this item to remain uncontested.

**RECOMMEN-
DATION:**

Adopt the Revised Tentative Order

File No. 41S0027 (JGU)

Appendices: A – Revised Tentative Order
 B – Comments Received
 C – Responses to Comments

Appendix A

REVISED TENTATIVE ORDER

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**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

REVISED TENTATIVE ORDER

ADOPTION OF SITE CLEANUP REQUIREMENTS for:

**AMERICAN LINEN SUPPLY COMPANY,
MARYATT INVESTMENTS, INC.,
CHARLES MARYATT, and
DAVID MARYATT**

for the property located at:

290 SOUTH MAPLE AVENUE
SOUTH SAN FRANCISCO, SAN MATEO COUNTY

The California Regional Water Quality Control Board, San Francisco Bay Region (hereinafter Regional Water Board), finds that:

1. **Site Location:** The facility is located at 290 South Maple Avenue in the City of South San Francisco (the Site). The Site is located approximately 0.75 mile northwest of the intersection of highways 101 and 380 and is approximately 250 feet east of the South San Francisco Centennial Trail where BART runs underground (Figure 1).

The Site occupies an approximately 1.6 acre parcel (APN # 014-231-020) at the northern corner of Browning Way and South Maple Avenue in an industrial/commercial area. The one-story commercial office/warehouse building at the Site has an approximate size of 27,000 square feet.

2. **Site History:** The Site was first developed in 1958 for occupancy by American Linen Supply Company (a Washington State corporation), doing business as Maryatt Industries, Inc., which operated a commercial laundry business on the Site until circa 1992. During that period of time, onsite dry cleaning operations using tetrachloroethene (PCE) were conducted by Maryatt Industries. From circa December 1992 to circa July 1993, Cintas, a separate company that purchased substantially all the assets of American Linen Supply Co. in December 1992, operated at the Site. In late 1993, Medical Linen Services, Inc., d.b.a. Complete Linen Services, another commercial laundry business, independent from American Linen Supply Co., Maryatt Industries, and Cintas, wholly occupied the Site and remains the sole occupant today. Complete Linen Services reportedly has not conducted any dry-cleaning operations at the Site, having used only water-based chemical cleaning agents.

The dry-cleaning operations originally were located in the northeastern portion of the building close to the adjoining property line with 272 South Maple Avenue. The building was expanded circa 1988, and, at that time, the dry-cleaning operations were completely moved to the west corner of the building. Circa 1988 to mid-1993, dry-cleaning operations were conducted in the west corner of the building, and spent dry-cleaning filters were stored in drums on a pad outside the west corner of the building. Since 1958, industrial wastewaters from water-based cleaning operations located inside the northwestern portion of the building have been discharged through subsurface industrial drain piping to an approximate 5,000-gallon concrete

sump located outside the northeastern side of the building, designed to settle solids prior to the discharge of industrial wastewater to the municipal sanitary sewer via subsurface piping. Two underground storage tanks (USTs), one storing gasoline (for fueling Maryatt Industries vehicles) and the other fuel oil (diesel for a backup fuel supply for a boiler until being emptied in circa 1984), previously located outside the southwest and northeast sides of the building, respectively, were both removed in 1987.

Records indicate that from circa March 20, 1958, to circa November 27, 1970, the Site was owned by Roy L. Maryatt. From circa November 27, 1970, to circa May 4, 1990, the Site was owned by David Maryatt and Charles Maryatt, as trustees under that certain Trust Agreement between Roy Lincoln Maryatt and Charlotte H. Maryatt and Charles Robert Maryatt and David Eugene Maryatt, as trustees, dated the 28th day of September, 1970.

Records indicate that David Maryatt and Charles Maryatt owned the Site from 1990 to 2002 when David Maryatt's ownership share was transferred by warranty deed to Maryatt Investments, Inc.

Charles Maryatt and Maryatt Investments, Inc., currently jointly hold title to the Site.

The primary chemicals of concern for the Site are volatile organic compounds (VOCs) due to past dry-cleaning operations onsite.

3. **Named Dischargers:** American Linen Supply Company is named as a discharger because of substantial evidence that it discharged pollutants to soil and groundwater at the Site, including its use of chlorinated solvents in laundry operations, the presence of these same pollutants in soil in the northern and western portions of the Site and in two areas of previous dry cleaning operations inside the building, and the presence of these same pollutants in groundwater at the Site.

David Maryatt and Charles Maryatt are named as dischargers because they owned the Site during and after the time of the activity that resulted in the discharge, had knowledge of the discharge or the activities that caused the discharge, and had the legal ability to prevent the discharge.

Maryatt Investments, Inc., and Charles Maryatt are named as dischargers because they are the current owners of the Site on which there is an ongoing discharge of pollutants, they have knowledge of the discharge, and they have the legal ability to control the discharge.

American Linen Supply Company, David Maryatt, Charles Maryatt, and Maryatt Investments, Inc., are collectively referred to as "Dischargers" in this Order.

Cintas is not named as a discharger because there is insufficient evidence to document that PCE was released during its operations.

If additional information is submitted indicating that other parties caused or permitted any waste to be discharged on the Site where it entered or could have entered waters of the State, the Regional Water Board will consider adding those parties' names to this Order.

4. **Regulatory Status:** This Site is currently not subject to any Regional Water Board order under California Water Code (CWC) section 13304; however, the Site has been subject to multiple CWC section 13267 directives since September 2004.
5. **Site Hydrogeology:** The Site is within the Colma Creek watershed and the South Westside Groundwater Basin of the San Francisco Bay Hydrologic Region. Soils encountered in the upper 25 feet below ground surface (bgs) consist of laterally discontinuous interbedded and intermixed fine sands, silts and clays, with occasional thin coarse sands and gravelly lenses. A finer-grained unit of predominantly clayey silt and silty clay with thin fine silty sand interbeds extends to approximately 40 feet bgs.

Depth to unconfined groundwater in the shallow aquifer (Zone A1) varies from 5 to 11 feet bgs. The deeper zone (A2) extends from approximately 15 to 25 feet bgs. A deeper semi-confined/confined aquifer (Zone B) was encountered at approximately 40 feet bgs. The flow direction in the shallow aquifer has been reported to range from northwest to east with the prevailing direction to north-northeast with a hydraulic gradient of approximately 0.006 foot/foot (ft/ft). Similarly, offsite to the west and east, the groundwater flow direction has been reported to range from north-northwest to east with a hydraulic gradient ranging from 0.001 to 0.007 ft/ft. Groundwater recharge in the area occurs by surface infiltration in unpaved areas, and regional groundwater flows northeastward beneath the Site toward the San Francisco Bay.

6. **Remedial Investigation:** Several onsite and offsite investigations have occurred since VOCs were detected at the Site during the gasoline UST removal in 1987.

In June 2003, Mr. Charles Maryatt contacted the Regional Water Board with a request for a case closure for the USTs formerly located at the Site. Groundwater samples collected from the gasoline UST pit in 1987 showed elevated concentrations of VOCs, including PCE up to 7,500 micrograms per liter ($\mu\text{g/L}$). A limited subsurface soil and groundwater investigation conducted in July 2003 showed low concentrations of VOCs in soil but highly elevated concentrations of VOCs in groundwater, including PCE up to 42,000 $\mu\text{g/L}$ on the southwest side of the Site, adjacent to 416 Browning Way.

In October 2003, the Regional Water Board directed Mr. Charles Maryatt to conduct additional investigation to identify the source of the VOCs found in groundwater and to better characterize the lateral and vertical extent of the contamination. The results of the additional investigations have confirmed the presence of PCE, and its breakdown products trichloroethene (TCE), cis-1,2-dichloroethene (cis-1,2-DCE), and vinyl chloride (VC), in groundwater, soil, and soil gas, with the highest concentrations along the adjoining property lines with 416 Browning Way to the southwest and 272 South Maple Avenue to the northeast, and at the former areas of dry cleaning operations at the northern and western portions of the building.

The historic maximum detected concentrations of contaminants of potential concern at the Site are listed by medium in the table below:

Analytes	Groundwater ($\mu\text{g/L}$)	Soil (mg/kg)	Soil Gas ($\mu\text{g/m}^3$)
PCE	66,000	8,200	320,000
TCE	1,800	16	84,000
Cis-1,2-DCE	2,200	31	27,000
VC	1,300	ND < 24	230

ND = not detected at concentrations above the reporting limit shown

$\mu\text{g/L}$ = micrograms per liter

mg/kg = milligrams per kilogram

$\mu\text{g/m}^3$ = micrograms per cubic meter

Groundwater investigation: Groundwater samples collected during the subsurface investigations conducted between 2003 and 2015 contained highly elevated concentrations of VOCs, including PCE at concentrations up to 66,000 $\mu\text{g/L}$. Groundwater in the western part of the Site has been impacted by VOCs originating from the 416 Browning Way site. Three shallow monitoring wells were installed onsite in 2008. The data collected from these wells and offsite cross- and downgradient wells has shown that the lateral extent of the groundwater VOC contamination has expanded north to the eastern corner of the 245 Spruce Avenue property and to the 272 South Maple Avenue properties. The lateral extent of VOC contamination in the northeasterly direction extends to the vicinity of former 272 South Maple Avenue monitoring well MW-8. The results of the 2015 investigation at the Site confirmed the presence of PCE in the shallow groundwater (Zone A1) in the western and northern portions of the Site. While the lateral extent of groundwater contamination was delineated in the past, it currently cannot be confirmed. Downgradient monitoring wells associated with the 272 South Maple Avenue property were decommissioned prior to closure of the UST case at 272 South Maple Avenue. Replacement monitoring wells are needed to enable future lateral delineation. The vertical extent of VOC (primarily PCE) contamination in the deeper Zone B was recently delineated in February 2015, which showed all Zone B groundwater and soil samples collected near or below the detection limits for PCE.

Soil and soil gas investigation: Concentrations exceeding the Regional Water Board's Environmental Screening Level of 0.7 mg/kg were detected in soil samples collected during the initial and additional investigations conducted at the Site from 2003 to 2015. Soil samples collected during GEI's subsurface investigation conducted in 2007 contained highly elevated concentrations of VOCs, including PCE at concentrations up to 8,200 mg/kg in soil in the northern portion of the Site, which was subsequently excavated in 2008. Soil gas samples collected in 2006 contained highly elevated concentrations of VOCs, including PCE at concentrations up to 320,000 $\mu\text{g/m}^3$ beneath the western portion of the building. The lateral extent of the VOC contamination in the shallow soil and soil gas has been delineated in the northern part of the Site.

7. **Interim Remedial Measures:** Interim remedial action was conducted in April 2008 along the northern side of the building adjacent to the 272 South Maple Avenue site. The objective was to further characterize soil and groundwater on- and offsite and to remove a highly

concentrated, shallow soil PCE “hot-spot” around the existing sump between the building foundation and the concrete driveway of the adjoining property. During the remedial action approximately 111 tons of PCE-impacted soil was removed up to a depth of 6 feet below the grade from an area of approximately 680 square feet within the northern release area. Further interim remedial measures need to be implemented at the Site in the western area to reduce the threat to water quality, public health, and the environment posed by the discharge of waste and to provide a technical basis for selecting and designing final remedial measures.

8. **Adjacent Sites:** There are three regulated sites located near the Site:

- a. 416 Browning Way site: This site is located west and adjacent to the Site. Goss-Jewett owned the property from 1957 to 2011 and operated a dry cleaning supply distribution business from 1957 to 2000 at the site. PCE was stored in a 4,100 gallon aboveground storage tank (AST) that was outside the western corner of the building on the site. The site is currently operated as B.I.A. Cordon Bleu, a wholesale manufacturer and distributor of porcelain and stoneware, bakeware, and dinnerware. In 2007, the Regional Water Board, while overseeing the investigation at the 290 South Maple Avenue property, directed Goss-Jewett to investigate the property for the presence of VOCs since the site was previously a dry cleaning supply distribution business, and it is located upgradient and cross-gradient to the Site.

The results of investigations at 416 Browning Way have confirmed the presence of highly-elevated concentrations of VOCs, predominantly PCE in soil and groundwater samples collected in the former AST area and the northeastern portion of the property adjacent to the 290 South Maple Avenue property. The data collected from onsite and offsite shallow monitoring wells has shown that the lateral extent of the groundwater VOC contamination has expanded northeast to the eastern corner of the 245 Spruce Avenue property and east to the 290 and 272 South Maple Avenue properties. The release of PCE at 416 Browning Way is likely commingling with the release from the 290 South Maple Avenue site. The Regional Water Board adopted Site Cleanup Requirements Order No. R2-2015-0012 on February 11, 2015, for the site. Order No. R2-2015-0012 requires the dischargers to characterize the extent of contaminants in soil and groundwater, to carry out interim remedial actions, and to prepare a final cleanup plan to address soil and groundwater contamination at the subject site. The dischargers are in the process of implementation of the interim remedial actions.

- b. Pellegrini Bros Wines Inc. site: The site at 272 South Maple Avenue, located north and adjacent to the Site, was a leaking UST case regulated by the San Mateo County Environmental Health Department. The site operates as a wine distribution facility and a storage facility for a laundry supply business. During the removal of three USTs in 1995, petroleum hydrocarbon contamination was detected in soil and groundwater at the site. Soil excavation was conducted as part of the remedial action in 1999. The primary chemicals of concern for the site were total petroleum hydrocarbons as gasoline, benzene, toluene, ethylbenzene, and xylenes. The UST case was closed in April 2015. Groundwater in the western part of the site is also impacted by VOCs potentially originating from two upgradient offsite sources: the sites at 290 South Maple Avenue and 416 Browning Way.

c. Zellerbach Paper Co. site: The site at 245 Spruce Avenue was a leaking UST case regulated by the San Mateo County Environmental Health Department. Petroleum hydrocarbon contamination was detected during the removal of three USTs at the site in 1986. Soil excavation was conducted at the site in 1991. The UST case was closed in October 2001. Groundwater in the southern part of the site has been impacted by VOCs potentially originating from the sites at 290 South Maple Avenue and 416 Browning Way.

9. **Basin Plan:** The Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan) is the Regional Water Board's master water quality control planning document. It designates beneficial uses and water quality objectives for waters of the State, including surface waters and groundwater. It also includes programs of implementation to achieve water quality objectives. The Basin Plan was duly adopted by the Regional Water Board and approved by the State Water Resources Control Board (State Water Board), Office of Administrative Law, and U.S. EPA, where required.

The potential beneficial uses of groundwater underlying and adjacent to the Site include:

- a. Municipal and domestic water supply
- b. Industrial process water supply
- c. Industrial service water supply

Three groundwater production well facilities in the South Westside Groundwater Basin, owned by the San Francisco Public Utilities Commission's Regional Groundwater Storage and Recovery Project, are located near the Site. One well is located approximately 0.2 mile northwest of the nearest property boundary of the Site, and two additional wells are located approximately 0.76 and 0.77 mile southwest of the Site.

Colma Creek is located approximately 0.5 mile north of the Site. The existing beneficial uses of Colma Creek include:

- a. Water contact recreation
- b. Water non-contact recreation
- c. Wildlife habitat
- d. Warm freshwater habitat

10. **Other Regional Water Board Policies:** Regional Water Board Resolution No. 88-160 allows discharges of extracted, treated groundwater from site cleanups to surface waters only if it has been demonstrated that neither reclamation nor discharge to the sanitary sewer is technically and economically feasible.

Regional Water Board Resolution No. 89-39, "Sources of Drinking Water," defines potential sources of drinking water to include all groundwater in the region, with limited exceptions for areas of high TDS, low yield, or naturally-high contaminant levels.

11. **State Water Board Policies:** State Water Board Resolution No. 68-16, "Statement of Policy with Respect to Maintaining High Quality of Waters in California," applies to this discharge. It

requires maintenance of background levels of water quality unless a lesser water quality is consistent with maximum benefit to the people of the State, will not unreasonably affect present and anticipated beneficial uses, and will not result in exceedance of applicable water quality objectives. This Order and its requirements are consistent with Resolution No. 68-16.

State Water Board Resolution No. 92-49, "Policies and Procedures for Investigation and Cleanup and Abatement of Discharges Under Water Code Section 13304", applies to this discharge. It directs the Regional Water Boards to set cleanup levels equal to background water quality or the best water quality which is reasonable, if background levels cannot be restored. Cleanup levels other than background must be consistent with the maximum benefit to the people of the State, not unreasonably affect present and anticipated beneficial uses of such water, and not result in exceedance of applicable water quality objectives. The remedial action plan will assess the feasibility of attaining background levels of water quality. This Order and its requirements are consistent with the provisions of Resolution No. 92-49, as amended.

12. **Preliminary Cleanup Goals:** Pending the establishment of site-specific cleanup levels, preliminary cleanup goals are needed for the purpose of conducting remedial investigation and remedial actions. These goals should address all relevant media (e.g., groundwater, soil, and soil gas) and all relevant exposure pathways and concerns (e.g., groundwater ingestion, migration of groundwater to surface waters, and vapor intrusion).
13. **Basis for 13304 Order:** CWC section 13304 authorizes the Regional Water Board to issue orders requiring the Dischargers to cleanup and abate waste where the Dischargers have caused or permitted waste to be discharged or deposited where it is or probably will be discharged into waters of the State and creates or threatens to create a condition of pollution or nuisance.
14. **Cost Recovery:** Pursuant to CWC section 13304, the Dischargers are hereby notified that the Regional Water Board is entitled to, and may seek reimbursement for, all reasonable costs actually incurred by the Regional Water 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.
15. **California Safe Drinking Water Policy:** It is the policy of the State of California that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. This Order promotes that policy by requiring discharges to be remediated such that maximum contaminant levels (designed to protect human health and ensure that water is safe for domestic use) are met in existing and future supply wells.
16. **CEQA:** This action is an order to enforce the laws and regulations administered by the Regional Water Board. As such, this action is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to section 15321 of the Resources Agency Guidelines.

17. **Notification:** The Regional Water Board has notified the Dischargers and all interested agencies and persons of its intent under CWC section 13304 to prescribe site cleanup requirements for the discharge and has provided them with an opportunity to submit their written comments.
18. **Public Hearing:** The Regional Water Board, at a public meeting, heard and considered all comments pertaining to this discharge.

IT IS HEREBY ORDERED, pursuant to CWC sections 13304 and 13267, that the Dischargers (or their agents, successors, or assigns) shall cleanup and abate the effects described in the above findings as follows:

A. PROHIBITIONS

1. The discharge of wastes or hazardous substances in a manner that will degrade water quality or adversely affect beneficial uses of waters of the State is prohibited.
2. Further significant migration of wastes or hazardous substances through subsurface transport to waters of the State is prohibited.
3. Activities associated with the subsurface investigation and cleanup that will cause significant adverse migration of wastes or hazardous substances are prohibited.

B. PRELIMINARY CLEANUP GOALS

The following preliminary cleanup goals shall be used to guide remedial investigation and interim remedial actions, pending establishment of site-specific cleanup levels applicable for industrial land use:

1. **Groundwater:** Applicable screening levels such as the Regional Water Board's Environmental Screening Levels (ESLs) document. Groundwater screening levels shall incorporate at least the following exposure pathways: groundwater ingestion and vapor intrusion to indoor air. For groundwater ingestion, use applicable water quality objectives (e.g., lower of primary and secondary maximum contaminant levels) or, in the absence of a chemical-specific objective, equivalent drinking water levels based on toxicity and taste and odor concerns.
2. **Soil:** Applicable screening levels such as the ESLs. Soil screening levels are intended to address a full range of exposure pathways, including direct exposure, nuisance, and leaching to groundwater. For purposes of this subsection, the Dischargers shall assume that groundwater is a potential source of drinking water.
3. **Soil gas:** Applicable screening levels such as the ESLs. Soil gas screening levels shall be protective of receptors for the vapor intrusion to indoor air pathway.

C. TASKS

1. **INTERIM REMEDIAL ACTION WORKPLAN**

COMPLIANCE DATE: February 1, 2016

Submit a workplan acceptable to the Executive Officer to evaluate additional interim remedial action alternatives and to recommend one or more alternatives for implementation to prevent further contaminant migration from the source areas near the western corner of the building. The workplan shall include a proposed monitoring well network for the Monitoring and Reporting Program. The workplan shall specify a proposed time schedule. Work may be phased to allow the investigation to proceed efficiently.

2. **COMPLETION OF INTERIM REMEDIAL ACTIONS**

COMPLIANCE DATE: 180 days after Executive Officer approval of Task 1 workplan

The Dischargers shall complete interim remedial actions and submit a technical report documenting compliance by the compliance date above. Specifically, the Dischargers shall submit a technical report acceptable to the Executive Officer documenting completion of the tasks identified in the Task 1 workplan. For ongoing actions, such as soil vapor extraction or groundwater extraction, the report shall document startup as opposed to completion.

3. **REMEDIAL INVESTIGATION WORKPLAN**

COMPLIANCE DATE: October 3, 2016

Submit a workplan acceptable to the Executive Officer to complete the characterization of the vertical and lateral extent of soil, soil vapor, and groundwater pollution. The workplan shall include tasks that provide data on the lateral extent of VOC contamination in groundwater offsite in the northeasterly downgradient direction and vertical extent of VOC contamination in groundwater in both on- and offsite locations. The workplan shall specify investigation methods, any needed changes to the Monitoring and Reporting Program, and a proposed time schedule. Work may be phased to allow the investigation to proceed efficiently, provided that this does not delay compliance.

4. **COMPLETION OF REMEDIAL INVESTIGATION**

COMPLIANCE DATE: 90 days after Executive Officer approval of Task 3 workplan

The Dischargers shall complete the remedial investigation and submit a technical report documenting compliance by the compliance date above. Specifically, the Dischargers shall submit a technical report acceptable to the Executive Officer documenting completion of the tasks identified in the Task 3 workplan. The technical report shall define the vertical and lateral extent of pollution down to concentrations at or below typical cleanup levels for soil and groundwater and provide an updated conceptual Site

model. The report shall document the extent of the offsite groundwater plume that originates at the Site.

5. RISK ASSESSMENT WORKPLAN

COMPLIANCE DATE: 90 days after Executive Officer approval of Task 3 workplan

Submit a workplan acceptable to the Executive Officer for preparation of either a screening level evaluation or a site-specific risk assessment. The workplan shall include a conceptual site model (i.e., identify pathways and receptors where Site contaminants pose a potential threat to human health or the environment). If a screening level evaluation is selected, the workplan shall identify which screening levels will be used and demonstrate that they address all relevant pathways and receptors for the Site.

6. COMPLETION OF RISK ASSESSMENT

COMPLIANCE DATE: 90 days after Executive Officer approval of Task 5 workplan

The Dischargers shall complete the risk assessment and submit a technical report documenting compliance by the compliance date above. Specifically, the Dischargers shall submit a technical report acceptable to the Executive Officer documenting completion of the tasks identified in the Task 5 workplan. The report shall include either a screening level evaluation or a site-specific risk assessment. The results of this report will help establish acceptable exposure levels, to be used in developing remedial alternatives required by Task 7 below.

7. REMEDIAL ACTION PLAN INCLUDING DRAFT CLEANUP LEVELS

COMPLIANCE DATE: 60 days after Executive Officer approval of Task 6 technical report

Submit a remedial action plan acceptable to the Executive Officer containing:

- a. Summary of remedial investigation
- b. Summary of risk assessment
- c. Evaluation of the installed interim remedial actions
- d. Feasibility study evaluating alternative final remedial actions
- e. Recommended final remedial actions and cleanup levels
- f. Implementation tasks and time schedule

The remedial action plan shall propose remedial work that has a high probability of eliminating unacceptable threats to human health and restoring beneficial uses of water in a reasonable time, with “reasonable time” based on the severity of impact to the beneficial use (for current impacts) or the time before the beneficial use will occur (for potential future impacts). The remedial action plan must address the full extent of contamination originating at the Site, including any contamination that extends beyond

the source-property boundary. The Dischargers are encouraged to coordinate groundwater remediation action plans with parties at the upgradient 416 Browning Way site, given the commingling of the groundwater contamination plumes from the two sites.

Item d shall include projections of cost, effectiveness, benefits, and impact on public health, welfare, and the environment of each alternative action.

Items a through d shall be consistent with the guidance provided by Subpart F of the National Oil and Hazardous Substances Pollution Contingency Plan (40 C.F.R. § 300), CERCLA guidance documents with respect to remedial investigations and feasibility studies, Health and Safety Code section 25356.1(c), and State Water Board Resolution No. 92-49 as amended ("Policies and Procedures for Investigation and Cleanup and Abatement of Discharges Under Water Code Section 13304").

Item e shall consider the preliminary cleanup goals for soil and groundwater identified in finding 12 and shall address the attainability of background levels of water quality (see finding 11).

8. **Delayed Compliance:** If the Dischargers are delayed, interrupted, or prevented from meeting one or more of the completion dates specified for the above tasks, the Dischargers shall promptly notify the Executive Officer, and the Regional Water Board or Executive Officer may consider revision to this Order.

D. PROVISIONS

1. **No Nuisance:** The storage, handling, treatment, or disposal of polluted soil or groundwater shall not create a nuisance as defined in CWC section 13050(m).
2. **Good Operation and Maintenance:** The Dischargers shall maintain in good working order and operate as efficiently as possible any facility or control system installed to achieve compliance with the requirements of this Order.
3. **Cost Recovery:** The Dischargers shall be liable, pursuant to CWC section 13304, to the Regional Water Board for all reasonable costs actually incurred by the Regional Water 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. If the Site is enrolled in a State Water Board-managed reimbursement program, reimbursement shall be made pursuant to this Order and according to the procedures established in that program. Any disputes raised by the Dischargers over reimbursement amounts or methods used in that program shall be consistent with the dispute resolution procedures for that program.
4. **Access to Site and Records:** In accordance with CWC section 13267(c), the Dischargers shall permit the Regional Water Board or its authorized representative:

- a. Entry upon premises in which any pollution source exists, or may potentially exist, or in which any required records are kept, which are relevant to this Order.
 - b. Access to copy any records required to be kept under the requirements of this Order.
 - c. Inspection of any monitoring or remediation facilities installed in response to this Order.
 - d. Sampling of any groundwater or soil that is accessible, or may become accessible, as part of any investigation or remedial action program undertaken by the Dischargers.
5. **Self-Monitoring Program:** The Dischargers shall comply with the Self-Monitoring Program as attached to this Order and as may be amended by the Executive Officer.
 6. **Contractor/Consultant Qualifications:** All technical documents shall be signed by and stamped with the seal of a California registered geologist, a California certified engineering geologist, or a California registered civil engineer.
 7. **Lab Qualifications:** All samples shall be analyzed by State-certified laboratories or laboratories accepted by the Regional Water Board using approved U.S. EPA methods for the type of analysis to be performed. Quality assurance/quality control (QA/QC) records shall be maintained for Regional Water Board review. This provision does not apply to analyses that can only reasonably be performed onsite (e.g., temperature).
 8. **Document Distribution:** An electronic and paper version of all correspondence, technical reports, and other documents pertaining to compliance with this Order shall be provided to the Regional Water Board, and electronic copies shall be provided to the following agencies:
 - a. San Francisco Public Utilities Commission
 - b. San Mateo County Environmental Health Department
 The Executive Officer may modify this distribution list as needed.

Electronic copies of all correspondence, technical reports, and other documents pertaining to compliance with this Order shall be uploaded to the State Water Board's GeoTracker database within five business days after submittal to the Regional Water Board. Guidance for electronic information submittal is available at:
http://www.waterboards.ca.gov/water_issues/programs/ust/electronic_submittal

9. **Reporting of Changed Owner or Operator:** The Dischargers shall file a technical report on any changes in contact information, site occupancy, or ownership associated with the Site described in this Order.

10. **Reporting of Hazardous Substance Release:** If any hazardous substance is discharged in or on any waters of the State, or discharged or deposited where it is, or probably will be, discharged in or on any waters of the State, the Dischargers shall report such discharge to the Regional Water Board by calling (510) 622-2369.

A written report shall be filed with the Regional Water Board within five working days. The report shall describe: the nature of the hazardous substance, estimated quantity involved, duration of incident, cause of release, estimated size of affected area, nature of effect, corrective actions taken or planned, schedule of corrective actions planned, and persons/agencies notified.

This reporting is in addition to reporting to the California Office of Emergency Services required pursuant to the Health and Safety Code.

11. **Periodic SCR Review:** The Regional Water Board will review this Order periodically and may revise it when necessary. The Dischargers may request revisions and, upon review, the Executive Officer may recommend that the Regional Water Board revise these requirements.

I, Bruce H. Wolfe, 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, San Francisco Bay Region, on

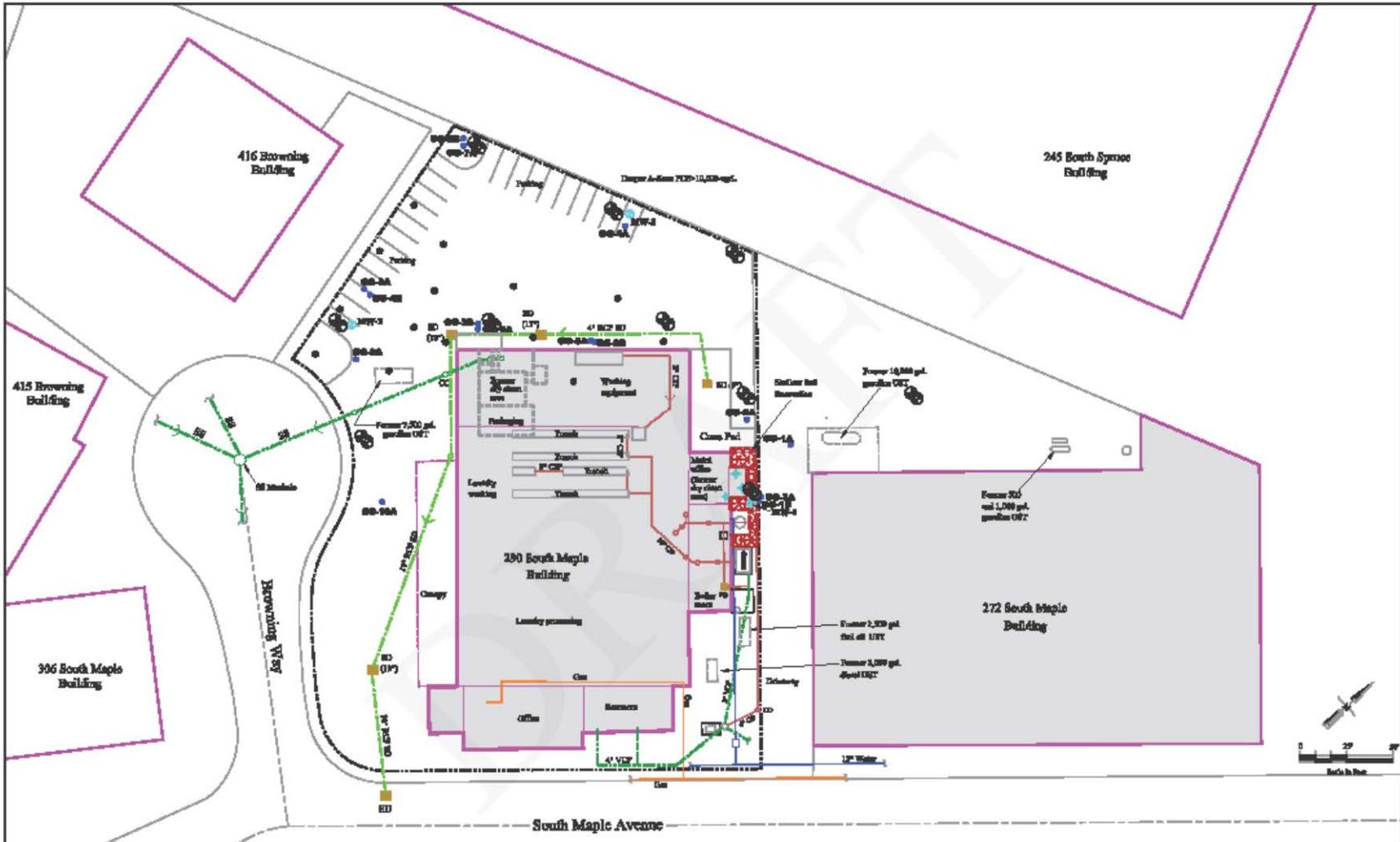
Bruce H. Wolfe
Executive Officer

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FAILURE TO COMPLY WITH THE REQUIREMENTS OF THIS ORDER MAY SUBJECT YOU TO ENFORCEMENT ACTION, INCLUDING BUT NOT LIMITED TO: IMPOSITION OF ADMINISTRATIVE CIVIL LIABILITY UNDER WATER CODE SECTIONS 13268 OR 13350, OR REFERRAL TO THE ATTORNEY GENERAL FOR INJUNCTIVE RELIEF OR CIVIL OR CRIMINAL LIABILITY

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Attachments: Figure 1 - Site Map
Self-Monitoring Program



Legend	
●	Existing Well (201214)
●	Proposed New Building
●	Proposed New Well/Pipe
●	Proposed New Well/Pipe
—	Sanitary sewer pipe (SS)
—	Storm sewer pipe (SS)
—	Gas line
—	Electricity
—	Water pipe
■	Shows depth below ground to bottom of well to install log



Drawing Name: Proposed New Shallow and Deeper A-Zone Monitoring Well Pairs

Address: 290 South Maple Avenue
South San Francisco, California

Drawn by:	JK/KA
Date:	04-15-2015
Scale:	1" = 50'
Job #:	CG7403
Figure #:	Figure 57

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

SELF-MONITORING PROGRAM for:

**AMERICAN LINEN SUPPLY COMPANY,
MARYATT INVESTMENTS, INC.,
CHARLES MARYATT, and
DAVID MARYATT**

for the property located at:

290 SOUTH MAPLE AVENUE
SOUTH SAN FRANCISCO, SAN MATEO COUNTY

1. **Authority and Purpose:** The Regional Water Board requests the technical reports required in this Self-Monitoring Program pursuant to CWC sections 13267 and 13304. This Self-Monitoring Program is intended to document compliance with Regional Water Board Order No. R2-2015-XXXX (site cleanup requirements).
2. **Monitoring:** The Dischargers shall measure groundwater elevations quarterly in all shallow (S) and deeper (D) monitoring wells, and shall collect and analyze representative samples of groundwater monitoring wells according to the Interim Remedial Action Workplan to be provided in Task 1 of Order No. R2-2015-XXXX.

The Dischargers shall sample any new monitoring or extraction wells quarterly and analyze groundwater samples for volatile organic compounds by USEPA Method 8260B. The Dischargers may propose changes in the monitoring well network; any proposed changes are subject to Executive Officer approval.

3. **Quarterly Monitoring Reports:** The Dischargers shall submit quarterly monitoring reports to the Regional Water Board no later than 30 days following the end of the quarter (e.g., report for first quarter of the year due April 30). The first quarterly monitoring report shall be due on July 29, 2016. The reports shall include:
 - a. **Transmittal Letter:** The transmittal letter shall discuss any violations during the reporting period and actions taken or planned to correct the problem. The letter shall be signed by the Dischargers' principal executive officer, or his/her duly authorized representative, and shall include a statement by the official, under penalty of perjury, that the report is true and correct to the best of the official's knowledge.
 - b. **Groundwater Elevations:** Groundwater elevation data shall be presented in tabular form, and a groundwater elevation map shall be prepared for each monitored water-bearing zone. Historical groundwater elevations shall be included in the fourth quarterly report each year.

- c. **Groundwater Analyses:** Groundwater sampling data shall be presented in tabular form, and an isoconcentration map shall be prepared for one or more key contaminants for each monitored water-bearing zone, as appropriate. The report shall indicate the analytical method used, detection limits obtained for each reported constituent, and a summary of QA/QC data. Historical groundwater sampling results shall be included in the fourth quarterly report each year. The report shall describe any significant increases in contaminant concentrations since the last report, and any measures proposed to address the increases. Supporting data, such as lab data sheets, shall be included in electronic format only.
 - d. **Groundwater Extraction:** If applicable, the report shall include groundwater extraction results in tabular form, for each extraction well and for the Site as a whole, expressed in gallons per minute and total groundwater volume for the quarter. The report shall also include contaminant removal results, from groundwater extraction wells and from other remediation systems (e.g., soil vapor extraction), expressed in units of chemical mass per day and mass for the quarter. Historical mass removal results shall be included in the fourth quarterly report each year.
 - e. **Status Report:** The quarterly report shall describe relevant work completed during the reporting period (e.g., Site investigation, interim remedial measures) and work planned for the following quarter.
- 4. **Violation Reports:** If the Dischargers violate requirements in this Order, then the Dischargers shall notify the Regional Water Board office by telephone as soon as practicable once the Dischargers have knowledge of the violation. Regional Water Board staff may, depending on violation severity, require the Dischargers to submit a separate technical report on the violation within five working days of telephone notification.
 - 5. **Other Reports:** The Dischargers shall notify the Regional Water Board in writing prior to any Site activities, such as construction or underground tank removal, which have the potential to cause further migration of contaminants or which would provide new opportunities for Site investigation.
 - 6. **Record Keeping:** The Dischargers or their agent shall retain data generated for the above reports, including lab results and QA/QC data, for a minimum of six years after origination and shall make them available to the Regional Water Board upon request.
 - 7. **SMP Revisions:** Revisions to the Self-Monitoring Program (SMP) may be ordered by the Executive Officer, either on his/her own initiative or at the request of the Dischargers. Prior to making SMP revisions, the Executive Officer will consider the burden, including costs, of associated self-monitoring reports relative to the benefits to be obtained from these reports.

Appendix B

COMMENTS RECEIVED

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October 22, 2015

VIA EMAIL (Bwolfe@waterboards.ca.gov) AND U.S. MAIL

Bruce H. Wolfe
Regional Water Quality Control Board
San Francisco Bay Region
1515 Clay St., Suite 1400
Oakland, CA 94612-1482

Re: Tentative Order – Site Cleanup Requirements for 290 South Maple Ave., SSF

Dear Mr. Wolfe:

This letter responds to the Tentative Order regarding 290 South Maple Ave., South San Francisco, San Mateo County (the “Site”), and to your accompanying letter dated September 4, 2015. The Tentative Order names the following parties as dischargers: American Linen Supply Company, Maryatt Investments, Inc., Charles Maryatt, and David Maryatt. According to a Sept. 16, 2015 letter from you, this matter will be considered by the Regional Water Quality Control Board (“Regional Board”) on November 18, 2015 during its regular meeting, and all written comments must be provided to the Regional Board by October 22, 2015.

On behalf of Maryatt Investments, Inc. and Charles Maryatt, enclosed with this letter is a mark-up of the Tentative Order. The suggested edits reflected in this mark-up represent an effort to correct certain errors in omissions in the Tentative Order, to provide additional information to the Regional Board, and to propose changes to the Tentative Order consistent with the facts and standard site investigation and remediation procedures. This mark-up is provided subject to the caveats that we cannot confirm that all facts in the mark-up are accurate, and that Maryatt Investments, Inc. and Charles Maryatt do not concede any liability. Discussion of particular aspects and bases for proposed changes to the Tentative Order follows.

I. The Tentative Order’s Proposed Schedule is Unnecessarily Aggressive

The Tentative Order came as somewhat of a surprise. It is also so aggressive as to be impracticable. The Tentative Order requires, among other things, (1) an interim remedial action workplan (RAW) by December 31, 2015; (2) completion of remedial actions and reporting

within five months of RAW approval; (3) a remedial investigation (RI) workplan nearly concurrently with the RAW (by January 31, 2016); and (4) 90 days for completion and reporting of the RI. This kind of aggressive schedule is usually reserved for sites with immediate exposure issues; no such issue has been identified for the Site. Accordingly, we request modifications to the Tentative Order.

We understand that the Site has been under Regional Board oversight for many years, and that substantial investigation and some interim remedial action have been conducted by Maryatt Investments. We also understand that given the presence of a significant mass of tetrachloroethylene (PCE) at 416 Browning Way – immediately adjacent and upgradient from the Site – Regional Board staff have been satisfied with the Site owners’ efforts to address the presence of PCE in soil and groundwater at the Site in a standard step-wise fashion and measured pace. As recently as July 24, 2015, Regional Board staff sent a letter approving a report from the Site owners which included the following elements: (1) installation of monitoring wells and soil borings, (2) soil and groundwater sampling, (3) semi-annual groundwater monitoring, and (4) provision of recommendations for remediation and/or mitigation. No urgency was conveyed in the staff’s letter. Accordingly, we expected to proceed in a measured, step-wise pace, and expected that remediation of the Site would not be required until 416 Browning Way was no longer an ongoing source of PCE contamination to the Site. In essence, we did not expect to be asked to proceed in a manner that is inefficient, or to clean up the results of a source migrating from next door.

However, we understand that the Regional Board recently became aware that the San Francisco Public Utilities Commission (“SFPUC”) has plans to initiate operation of a water well (the “Linear Park Well,” also known as “Site 13”) near the Site. As a result, it appears that the Regional Board quickly decided that aggressive remediation at the Site (and at 416 Browning Way) should be initiated immediately, and it issued the Tentative Order. Indeed, the presence and potential start-up of the Linear Park Well appears to be the driver for the Regional Board’s urgency. However, absent from the Tentative Order is any *finding* that the Site poses any risk to water quality at the Linear Park Well. In fact, there appears to be no such risk. The SFPUC already determined that the Site (and 416 Browning Way) has, in its terms, “low potential.”¹ According to the SFPUC, this means:

The potential to affect subsurface conditions at a site would also be considered to be low if any of the following three factors is known to occur: (1) the direction of groundwater flow is away from the facility site construction area; (2) the lateral extent of contamination from the

¹ San Francisco Planning Department, Draft EIR for SFPUC San Francisco Groundwater Supply Project (March 13, 2013) (“DEIR”).

occurrence is known and is not present within the proposed facility site construction area; or (3) only soil was affected by the occurrence and the potentially contaminated site is not located within the proposed facility site or immediately adjacent to the site (i.e., within 200 feet of the construction area).²

Here, it appears likely the SFPUC based its “low potential” conclusion on item (1) above. We have inquired with the SFPUC about the Linear Park Well in relation to the Site, and have been provided no indication that the SFPUC has changed its conclusion. Accordingly, not only does the Tentative Order lack a finding upon which to base urgent action, it appears there is no such basis. Accordingly, we request the following modifications (among others) to the Tentative Order, as reflected in the attached mark-up.

TASK 1: This Task requires a workplan to evaluate additional interim remedial action alternatives and to recommend one or more alternatives for implementation to prevent further contaminant migration from the source areas near the western corner of the building. We agree that the focus now should be on interim remedial action, rather than on non-remedial investigation activities, and thus this workplan should replace the soil and groundwater investigation workplan approved in staff’s July 24, 2015 letter. A more reasonable due date for this workplan is January 1, 2016.

TASK 2: In the Tentative Order, Task 2 requires completion and reporting of interim remedial actions within five months of workplan approval. This is insufficient time to implement, monitor, evaluate and report on the effectiveness of the remedial actions which will likely involve multiple groundwater injections and lengthy soil vapor extraction. Accordingly, we request that Task 2 include performing remedial actions over a six-month period with a progress status report, and that a new Task 3 be created: completion reporting of interim remedial actions, to be due twelve months after Regional Board approval of the Task 1 workplan.

TASK 4 (TASK 3 in the Tentative Order): Currently, the Tentative Order calls for a remedial investigation workplan by January 31, 2016. This timing is unreasonable and impracticable because the proposed Task 3 will not be completed until early 2017. A more practicable due date is 60 days after the staff’s approval of the proposed Task 3 report.

Provision 5 (Self-Monitoring Program): In the Tentative Order, this provision states “The Dischargers shall comply with the Self-Monitoring Program [SMP] as attached to

² *Id.*

this Order and as may be amended by the Executive Officer.” The SMP calls for quarterly monitoring of ten pairs of nested wells (MW-1S – MW-10D). These wells are not yet in place. (Only three monitoring wells are on the Site, and the value of their data has been questioned). The ten new wells were originally proposed in Maryatt Investments’ April 2015 report and workplan, to satisfy Regional Board staff requests to define the lateral and vertical extent of the on-site and off-site plume. However, the Regional Board’s direction regarding the Site has changed – from a focus on plume definition and monitoring to a focus on prompt remediation. This new focus requires a new assessment of the appropriate locations and depths of monitoring wells. As noted above, TASK 1, as modified, will require new monitoring wells, and this language has been added to our mark-up of the Tentative Order (“The workplan shall include installation and sampling of groundwater monitoring wells.”). To simply proceed with installation and monitoring of ten pairs of wells proposed outside the context of interim remedial action would likely result in suboptimal data collection efforts – and a waste of resources. Accordingly, we request that the SMP language of the Order be modified as reflected in the mark-up (“The Dischargers shall comply with the Self-Monitoring Program to be prepared by the Executive Officer consistent with the interim remedial action workplan approved by the Executive Officer”).

Again, additional modifications to the Tentative Order are provided in the attached mark-up.

II. The Tentative Order Fails to Apportion Liability

We understand that the Regional Board generally presumes joint and several liability to apply to its designations of parties as “dischargers” under the Water Code; however, to the extent it is determined that a divisibility analysis should be applied, we request that the Regional Board apply such analysis to its designation of Charles Maryatt and Maryatt Investments, Inc. as “dischargers.”

The U.S. Supreme Court has offered potentially useful guidance on relevant factors in the CERCLA context. The Court has held that “apportionment is proper when ‘there is a reasonable basis for determining the contribution of each cause to a single harm.’” *Burlington Northern & Santa Fe Ry. v. United States*, 556 U.S. 599, 613-614 (U.S. 2009) (hereinafter, “*BNSF*”), quoting Restatement (Second) of Torts § 433A(1)(b), p. 434 (1963-1964)(hereinafter Restatement).

In *BNSF*, the Supreme Court upheld a district court’s method of divisibility as meeting the applicable “reasonable basis” standard, where the district court took into account a 50% margin of area, and created a divisibility formula based on a number of factors, including (1)

percentage of land area owned by the PRP; (2) the relative duration of the PRP's lease; and (3) the PRP's relative contribution of chemicals to the Site. *BNSF*, at 606, 618.

Regarding the Site here, there is a reasonable basis for divisibility of ownership liability based on duration of ownership interests during the time period of the alleged releases. As will be shown below, the duration of Charles Maryatt's ownership interest during the period of alleged releases can be calculated at approximately 33%.

To conduct this analysis, we first note that the Tentative Order, in Finding 2, states that PCE was used at the Site from 1958 to 1993, a period of roughly 35 years.

Next, we determine Charles Maryatt's duration of ownership during that period. The enclosed September 16, 2015 Chain of Title Report for 290 S. Maple Ave. ("Chain of Title Report") demonstrates that Charles Maryatt was never the sole owner and did not own more than a 50% share of the Site at any time that chlorinated solvents allegedly were used.³ According to the Chain of Title Report, the Site was granted jointly to Charles and David Maryatt as trustees in 1970, and then granted to Charles and David jointly as individuals in 1990.⁴ The Chain of Title Report shows that David transferred his interest in the Property to Maryatt Investments, Inc. in 2002.⁵

Based on these records, and the findings in the Tentative Order, it is clear that Charles Maryatt was at most the 50% owner from 1970 to 1993 (the year noted in the Tentative Order in which PCE use ended). During the 1970-1993 period (23 years), David Maryatt and Charles Maryatt jointly owned the Site.

Thus, there is a simple reasonable basis for limiting apportionment of ownership liability to Charles Maryatt at no greater than 33% of the amount apportioned based on mere ownership, as Charles owned no more than 50% of the Site during 23 of the 35 years during which it is alleged that PCE was used. This can be expressed as $[(50\% * 23) / 35] = 32.85\%$ (or approximately 33%).

This divisibility analysis is provided without prejudice to Charles Maryatt's right to argue that other entities are responsible for the releases, including with regard to liability based on operator status or any equitable factors regarding involvement in operations at the Property, as Charles Maryatt, unlike others, was not directly involved in operations at the Site.

³ 2015-0916 Chain of Title Report for 290 S. Maple Ave (a copy of this Chain of Title Report is enclosed).

⁴ *Id.*, at Schedule A.

⁵ *Id.*

Bruce H. Wolfe
Regional Water Quality Control Board, San Francisco Bay Region
October 22, 2015
Page 6 of 6

Thank you again for the opportunity to comment on the Tentative Order. This submission is not intended to fully cover the substance or merits of the Tentative Order. As you are aware, Charles Maryatt and Maryatt Investments, Inc. reserve their rights to contest “discharger” designation under the Water Code, and other forms of liability in relation to the Site. Therefore, we make this submission without admission or prejudice to, or waiver of, Charles Maryatt’s and Maryatt Investments, Inc.’s rights and defenses.

Very truly yours,



Ladd Cahoon

Enclosures

cc: Charles Maryatt (email only)
Maryatt Investments, Inc. (email only)
David Maryatt (by U.S. Mail only)
American Linen Supply Co. (by U.S. Mail only)
Jolanta Uchman, jolanta.uchman@waterboards.ca.gov (email only)
Cheryl Prowell, Cheryl.Prowell@waterboards.ca.gov (email only)

Appendix C

RESPONSES TO COMMENTS

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**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

RESPONSE TO COMMENTS

Adoption of Site Cleanup Requirements for American Linen Supply Company, Maryatt Investments, Inc., Charles Maryatt, and David Maryatt, for the property located at 290 South Maple Avenue, South San Francisco, San Mateo County

This document provides Water Board staff's response to comments received on the tentative order (TO) for Site Cleanup Requirements for the property located at 290 South Maple Avenue in South San Francisco (Site). Water Board staff circulated the TO for public comment on September 4, 2015. We received comments on the TO from Ladd Cahoon of Edgcomb Law Group LLP on behalf of Charles Maryatt and Maryatt Investments, Inc., in a letter dated October 22, 2015. Our response to the comments summarizes each comment in *italics* followed by the Water Board staff response. For the full context and content of each comment, refer to the original comment letter in Appendix B.

1. Comment

Given the extensive track record confirming the discharger's compliance and the confirmed presence of PCE at the upgradient 416 Browning site, we question the need for an expedited schedule.

Response

We disagree. Although the Site has been under Water Board oversight for many years and substantial investigation and some remedial action have been conducted, the Site has not been completely characterized. Adoption of the TO would provide a clear path forward toward Site cleanup and groundwater investigation and mitigation, and protection of the San Francisco Public Utilities Commission (SFPUC) wells. The neighboring site at 416 Browning has been under a Water Board order since February 2015. Given the likely commingling of the groundwater contamination plumes from the two sites, site cleanup will benefit from coordination between the parties at the two sites. Adoption of the TO will encourage such coordination.

2. Comment

There is no finding that the Site poses any risk to water quality at the SFPUC Linear Park Well. Based on (i) the Draft EIR for SFPUC San Francisco Groundwater Supply Project dated 3/13/2013 and (ii) enquires with SFPUC, the Site has no potential to affect the well.

Response

We disagree. There is sufficient data that demonstrates the unauthorized releases at the Site are responsible for the impacts to the shallow aquifer. The TO does include findings documenting the presence of the SFPUC well cluster located less than 0.25 mile from the Site. This well cluster is not yet pumping under active supply conditions; however, it is premature to rule out any potential impacts to the well in the future. The proximity of the well cluster to the Site warrants increased scrutiny. The proposed deadlines for task completion are not unusual or unreasonable.

3. Comment

The Order has an aggressive and impracticable schedule and lacks a finding upon which urgent action is required. We request modifications to the Order tasks and compliance dates.

Response

We partially agree. We have revised the TO to make some reasonable updates to the schedule but have not agreed to all of the requested modifications. All deadlines were extended at least one month because the TO was originally scheduled to be considered during the October Board meeting but was delayed to November. Prompt cleanup action is warranted due to the Site's proximity to the SFPUC well cluster, as explained in the response to Comment 2. To focus immediate attention on interim corrective action, we have agreed to extend the deadline for Task 3, the Remedial Investigation Workplan, to October 3, 2016. This is reasonable given that there is already a robust dataset for the Site, and additional investigation will be most beneficial after interim corrective actions have been implemented.

4. Comment

The TO fails to apportion liability among the dischargers. The Regional Board should apply a divisibility analysis as part of naming dischargers in this TO.

Response

We disagree. The Water Code does not require the Water Board to apportion liability among named dischargers in section 13304 orders. On the contrary, it calls for dischargers to be named jointly and severally, a practice that is consistent with State and federal law and policy and with this Board's past practice. Further, the dischargers have other avenues to apportion liability, including negotiation, mediation, arbitration, and litigation. However, the findings in the TO may be helpful to the named dischargers in reaching an equitable apportionment of liability.

5. Comment

The commenter proposed changes to the TO including factual and editorial changes to the findings (principally findings about site history, remedial investigation, and adjacent sites), schedule changes (see Comment 3), and elimination of the Self Monitoring Program.

Response

We agree with the majority of the proposed changes to the findings and have incorporated these in the revised TO. We partially agreed to the changes to the schedule, as discussed in the response to Comment 3. We disagree with the proposed removal of the Self Monitoring Program. Routine monitoring on a consistent schedule is a customary step to establish baseline conditions prior to conducting remediation and is necessary to document remediation effectiveness. The current monitoring well network at the Site is inadequate. The well network in the Tentative Order was based on an approved workplan; however, additional changes to this network may be appropriate and we now require a monitoring well network to be proposed as part of Task 1. The first due date for the Self Monitoring Program was extended to July 29, 2016, to allow review and approval of the new proposal.

In addition to the changes made in response to the comments noted above, we have made minor editorial and formatting changes to the TO.