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## Central Valley Regional Water Quality Control Board

### CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD CENTRAL VALLEY REGION

#### CLEANUP AND ABATEMENT ORDER R5-2024-0700 FOR

TIMOTHY BORSOFF  
13416 LA PORTE ROAD, STRAWBERRY VALLEY  
YUBA COUNTY, CALIFORNIA

This Order is issued to Timothy Borsoff (responsible party) pursuant to Water Code section 13304 and Health and Safety Code section 25296.10, which authorize the Central Valley Regional Water Quality Control Board (Central Valley Water Board or Board) to issue an order requiring the cleanup and abatement of wastes associated with unauthorized releases from underground storage tanks (USTs), and Water Code section 13267, which authorizes the Board to require the preparation and submittal of technical and monitoring reports.

The Executive Officer finds as follows:

#### **PROPERTY OWNERSHIP AND SITE OPERATIONS**

1. The former gasoline service station at 13416 La Porte Road, referenced by Yuba County assessor parcel number (APN) 054-130-024-000, in Strawberry Valley, California (the Site) operated from at least 1967, according to Yuba County Assessor's records, until October 1999.
2. Anne Borsoff (deceased October 1990) and Benjamin Borsoff (deceased April 2022) owned the Site from May 1976 until September 1994, when the property was deeded to the sole ownership of Benjamin Borsoff, who owned the Site until his death. Benjamin Borsoff operated the gas station and a general store in the front of the property, and lived in a residence in the rear of the property.
3. Following Benjamin Borsoff's death, his heir, Timothy Borsoff moved into the residence on the Site and discontinued operation of the general store. Once the county court completed probate proceedings, Timothy Borsoff inherited the property in 2023. Timothy Borsoff is named under this Order because they own property where an unauthorized release of a hazardous substance from a UST occurred. (Cal. Code Regs., tit. 23, § 2720.)

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

## SITE BACKGROUND

4. Benjamin Borsoff removed a 1,000-gallon gasoline UST from the Site in 1995. He then removed a second 1,000-gallon gasoline UST in 1999. Soil samples collected from the excavations contained up to 14,000 milligrams per kilograms (mg/kg) total petroleum hydrocarbons as gasoline (TPHg) and 110 mg/kg benzene, indicating a release had occurred from the Site UST system. No further work was performed at the Site until 2011 when the domestic wells on the Site and on the adjacent property to the east were sampled and found to contain hydrocarbons. Stratus Environmental Inc. (Stratus) then performed a sensitive receptor survey to identify additional nearby domestic wells.
5. In 2011, Stratus advanced four borings (CPT-1 through CPT-4), installed six groundwater monitoring wells (MW-1 through MW-6), and installed four soil gas wells (SV-1 through SV-4). Initial groundwater samples contained up to 180,000 micrograms per liter (ug/L) TPHg; 3,300 ug/L benzene, and 2,800 ug/L methyl tert butyl ether (MTBE). Initial soil gas samples contained up to 10,000 micrograms per cubic meter (ug/m<sup>3</sup>) TPHg and 84 ug/m<sup>3</sup> benzene.
6. In 2014, Stratus advanced nine more borings (CPT-5 through CPT-10; B-1 through B-3), installed eight more groundwater monitoring wells (MW-7 through MW-14), replaced well MW-12 with MW-12R, and installed three soil vapor extraction (SVE) wells (VE-1 through VE-3). Stratus completed installation and startup of the SVE system in February 2015.
7. In March 2020, Stratus completed installation and start-up of a groundwater extraction and treatment (GWE&T) system. In August 2020, Stratus re-started the SVE system, after the system was off since February 2020 for various reasons. The GWE&T and SVE systems together comprise a dual-phase extraction (DPE) remediation system. In November 2020, Stratus started the air-sparge (AS) remediation system and began pilot testing in conjunction with operating the DPE system. However, Benjamin Borsoff shut down all remediation systems and stopped work at the Site in June 2021. Benjamin Borsoff exhausted the \$1.5 million allotted for his UST Cleanup Fund reimbursement claim and did not have the means to cover costs himself.
8. In February 2023, Central Valley Water Board staff received approval for \$100,000 in emergency funding for this case through the State Water Board's Emergency, Abandoned, and Recalcitrant (EAR) Account program. At that time, no work had been performed at the Site since June 2021. The emergency funding was warranted because Benjamin Borsoff was recalcitrant and maintaining the DW-3 well-head treatment system constituted an emergency situation. In April 2023, Stratus monitored and sampled nine surrounding domestic supply wells, including on-Site DW-1, and DW-2 and DW-3 on the east- and west-adjacent properties. Stratus also performed operation and maintenance on the DW-3 well-head treatment system. Staff directed Stratus to use the remaining emergency funding to continue sampling

of the nine domestic wells and perform operation and maintenance of the DW-3 well-head treatment system.

**RESCISION AND REPLACEMENT OF CAO R5-2017-0700**

9. On 6 September 2017, Central Valley Water Board staff issued *Cleanup and Abatement Order R5-2017-0700 (2017 CAO)* to Benjamin Borsoff. The table below presents the tasks required by the 2017 CAO and Benjamin Borsoff’s corresponding compliance actions.

2017 CAO Requirements	Benjamin Borsoff Compliance	
	Action	Date
Submit Feasibility Study	Submitted <i>Feasibility Study</i>	1 February 2017
Submit Final Remediation Plan /Implement Remedial Option	Submitted <i>Groundwater Infiltration Test Results Report</i>	9 January 2018
	Submitted <i>Amended Work Plan for Remediation Pilot Testing</i>	21 March 2018
	Completed various stages of installation and startup of the DPE/AS remediation system	30 March 2020
	Operated the full DPE/AS system	1Q20 – 2Q21
Submit Quarterly Remediation Update Reports	Submitted quarterly or annual remediation progress reports <sup>1</sup>	3Q17 – 2Q21
Submit Semi-Annual Groundwater Monitoring Reports	Submitted semi-annual or annual groundwater monitoring reports <sup>1</sup>	3Q17 – 2Q21
Submit Updated Sensitive Receptor Survey	Submitted <i>Compliance with Cleanup and Abatement Order</i>	13 February 2018
Maintain treatment systems for any domestic wells impacted by the Site release	Installed a well-head treatment system on adjacent domestic well DW-3	19 November 2020
	Performed routine maintenance of the system	3Q20 – 2Q23
Submit Comprehensive Closure Evaluation and Request for Case Closure	Case is not currently a candidate for closure	--
60-Day Public Comment Period		

DPE/AS= dual-phase extraction and air-sparge

<sup>1</sup> Central Valley Water Board staff allowed Benjamin Borsoff to submit annual groundwater monitoring and remediation progress reports in 2020 and 2021 to preserve the limited remaining Cleanup Fund claim budget.

10. In June 2021 Benjamin Borsoff ceased operation of the remediation system and all work at the Site as he had depleted the allotted budget of his Cleanup Fund claim.

11. On 20 January 2022, Central Valley Water Board staff issued a *Notice of Violation (NOV)*, notifying Benjamin Borsoff that he was not in compliance with the 2017 CAO, and requiring him to comply by (1) continuing to perform routine groundwater monitoring, (2) perform operation and maintenance of the DW-3 well-head treatment system, and (3) continue to operate the DPE/AS remediation system.
12. Benjamin Borsoff remained recalcitrant until his death in April 2022.
13. As Benjamin Borsoff has passed away, his heir Timothy Borsoff has inherited the Site property. Risk from the Site release to nearby domestic supply wells remains. Central Valley Water Board staff hereby issues the *Cleanup and Abatement Order R5-2024-0700 (2024 CAO)* to rescind and replace *Cleanup and Abatement Order R5-2017-0700 (2017 CAO)*.

### LEGAL AUTHORITY

14. On 1 May 2012, the State Water Board adopted Resolution No. 2012-0016, and with it, the Low-Threat UST Case Closure Policy (LTCP). This Policy establishes general and media-specific criteria for cleanup of unauthorized releases from petroleum UST sites subject to division 20, chapter 6.7 of the Health and Safety Code (§ 25280 et seq.). When both general and applicable media-specific criteria are satisfied, a leaking UST case is generally considered to present a low threat to human health, safety, and the environment and the case becomes eligible for closure. The Policy is necessary to establish consistent, statewide case closure criteria for low-threat petroleum UST sites in California.
15. Health and Safety Code section 25296.10, subdivision (a) provides that: Each owner, operator, or other responsible party shall take corrective action in response to an unauthorized release in compliance with this chapter and the regulations adopted pursuant to Section 25299.3.
16. California Code of Regulations title 23 (Title 23), section 2720 defines “responsible party” as:
  - (1) Any person who owns or operates an underground storage tank used for the storage of any hazardous substance;
  - (2) In the case of an underground storage tank no longer in use, any person who owned or operated the underground storage tank immediately before the discontinuation of its use;
  - (3) Any owner of the property where an unauthorized release of a hazardous substance from an underground storage tank has occurred; [or]
  - (4) Any person who had or has control over an underground storage tank at the time of or following an unauthorized release of a hazardous substance.

17. Based on the above Findings, Timonthy Borsoff is a “responsible party,” pursuant to Title 23, section 2720, by virtue of their ownership of the Site property where a release of a hazardous substance from a UST has occurred.
18. Water Code section 13304, subdivision (a) states, in relevant part, that: Any person . . . who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and causes, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board clean up the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including, but not limited to, overseeing cleanup and abatement efforts...
19. Water Code section 13050, subdivision (d) defines “waste”: “Waste” includes sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers or whatever nature prior to, and for purposes of, disposal.
20. Water Code section 13050, subdivisions (l) and (m) define “pollution” and “nuisance,” respectively, as:
  - (1) “Pollution” means an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects either of the following:
    - (A) The waters for beneficial uses.
    - (B) Facilities which serve these beneficial uses.
  - (2) “Pollution” may include “contamination.”
  - (3) “Nuisance” means anything which meets all of the following requirements:
    - (A) Is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of the property, so as to interfere with the comfortable enjoyment of life or property.
    - (B) Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.
    - (C) Occurs during, or as a result of, the treatment or disposal of wastes.
21. Based on the above Findings, the responsible party has caused or permitted waste to be discharged or deposited where it is, or may be, discharged to waters of the state and has caused, or has threatened to cause, a condition of pollution or nuisance.
22. Subdivision (b)(1) of Water Code section 13267 provides in pertinent part that: In conducting an investigation . . . the Board may require that a discharger shall

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

23. The burden, including costs, of preparing these reports is reasonable in relation to the need for such reports and benefits to be obtained therefrom, considering the threats that unauthorized petroleum releases may pose to private water supply wells and beneficial uses of groundwater.

### **REQUIRED ACTIONS**

**IT IS HEREBY ORDERED** that, pursuant to Water Code sections 13267 and 13304 and Health and Safety Code section 25296.10, the responsible party shall comply with the following provisions:

1. **Within 30 days of the issuance of this Order**, submit proof of having retained and signed a work contract with an environmental consultant to perform work on this case on your behalf at your expense.
2. **Within 90 days of the issuance of this Order**, complete the following:
  - a. Monitor and sample Site monitoring wells:
    - i. MW-1 through MW-11, MW-12R, MW-13 through MW-16
    - ii. EX-1 through EX-5
  - b. Monitor and sample surrounding domestic supply wells:
    - i. DW-1 through DW-6, Armstrong Well (DW-7), Jacuzzi Well, Dorris Well
    - ii. Sampling of DW-3 is to include influent, mid-stream, and effluent from the well-head treatment system
  - c. Prepare and submit a groundwater monitoring report to include, but not be limited to, the following:
    - i. Description of the monitoring and sampling activities
    - ii. Recommendations for any additional assessment or testing needed to characterize or delineate Site contamination
    - iii. Evaluation of chemical concentration trends, supported with appropriate graphs
    - iv. Maps showing Site groundwater sampling locations and benzene and MTBE iso-concentrations
    - v. Maps showing current groundwater elevation contours for groundwater zones

- vi. Tabulated monitoring well information including: well identification, groundwater zone, well screen interval, top of casing elevation, and well depth
  - vii. Tabulated current measured depth to groundwater
  - viii. Tabulated current groundwater analytical results
  - ix. Tabulated historical data for Site monitoring wells
  - x. Copy of the analytical laboratory reports
  - xi. Copy of well sampling field logs that document, as appropriate, measured depth to water, well purging method, water quality parameters, date and time, volume of water removed, and sample condition
3. After the initial groundwater monitoring event requested above, sample Site monitoring wells and surrounding domestic wells during 2<sup>nd</sup> and 4<sup>th</sup> calendar quarters and submit a groundwater monitoring reports **by the 1<sup>st</sup> day of the second month following the end of each semi-annual calendar period.** Monitoring, sampling, and reporting requirements for semi-annual events shall match those listed in Item 2 above.
  4. **Within 180 days of the issuance of this Order**, inspect, repair, and start operation of the GWE&T, SVE, and AS remediation systems and submit a report of these activities.
  5. After remediation system startup, perform routine O&M on the GWE&T, SVE, and AS remediation systems, and the DW-3 well-head treatment system; collect monthly vapor samples from the SVE system and water samples from the GWE&T influent and effluent; and submit quarterly remediation update reports **by the 1<sup>st</sup> day of the second month following the end of each calendar quarter (i.e. 1 May, 1 August, 1 November, 1 February).**

Quarterly remediation update reports shall include, but are not limited to, the following:

- a. A summary of routine O&M activities and system vapor and groundwater sampling and results
- b. Tabulation of SVE system operational and field data
- c. Tabulation of SVE system analytical data
- d. Tabulation of SVE system extraction and emission rate data, which includes:
  - i. System influent concentration in milligrams per cubic meter
  - ii. Effluent concentration
  - iii. Total extraction rate in pounds per day
  - iv. Emission rate in pounds per day
  - v. Destruction efficiency
  - vi. Total mass removed for the reporting period
  - vii. Cumulative mass removed

- e. Tabulation of GWE&T system analytical data
  - f. Tabulation of GWE&T system operational and field data including:
    - i. Total mass removed for the reporting period
    - ii. Cumulative mass removed
  - g. Tabulation of DW-3 well-head treatment system analytical data
  - h. Tabulation of AS system operation and field data, including:
    - i. Injection rate for the reporting period
    - ii. Total mass injected for the reporting period
    - iii. Cumulative mass injected
  - j. Field data sheets
6. Before conducting activities on off-Site properties, the responsible party shall obtain permission from off-Site property owners.
  7. The responsible party shall submit electronic copies of documents and electronic data required by this Order over the Internet to the [State Water Board's Geographic Environmental Information Management System \(GeoTracker\) database](https://geotracker.waterboards.ca.gov) at (<https://geotracker.waterboards.ca.gov>). Electronic submittals shall conform to the requirements of the Title 23, division 3, chapter 30 and also with GeoTracker standards and procedures, as specified on the [State Water Board's website](https://www.waterboards.ca.gov/ust/electronic_submittal/) at ([https://www.waterboards.ca.gov/ust/electronic\\_submittal/](https://www.waterboards.ca.gov/ust/electronic_submittal/)).
  8. Appropriate reports must be prepared by, or under the supervision of, a registered professional engineer or geologist and signed and stamped by the registered professional. (See Bus. & Prof. Code, §§ 6735, 7832, and 7835.1.)
  9. All technical reports shall include a cover letter signed by the submitting party (or their authorized agents), certifying under penalty of perjury under the laws of the State of California that the signer has examined and is familiar with the report and that the report is true, complete, and accurate. The submitting party shall also state if they agree with any recommendations or proposals and whether they approved implementation of said proposals.

If, in the opinion of the Executive Officer, the responsible party fails to comply with the provisions of this Order, the Executive Officer may refer this matter to the Attorney General for judicial enforcement, may issue a complaint for administrative civil liability, or may take other enforcement actions. Failure to comply with this Order may result in the assessment of administrative civil liability of up to \$10,000 per violation, per day, depending on the violation, pursuant to the Water Code, including sections 13268, 13350, and 13385. The Central Valley Water Board reserves its right to take any enforcement actions authorized by law.

Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with Water Code section



13320 and California Code of Regulations, title 23, section 2050 et seq. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, in which case the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the [law and regulations applicable to filing petitions](#) will be provided upon request or may be found on the Internet at the web address below:

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

This Order is effective upon the date of signature.

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PATRICK PULUPA,  
Executive Officer

8/19/2024

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Date

ATTACHMENT: Estimate of anticipated costs required to obtain case closure.