

2591

JERRY GILBERT
1 Rue De La Azure
Sparks, Nevada 89434
775-544-2270
gilsnet5161@sbcglobal.net



18 February 2018

State Water Resources Control Board
Office of Chief Counsel
Adrianna M. Crowl
P.O. Box 100
Sacramento, CA 95812-0100

Petition for relief as Responsible Party:

I am submitting this petition to be excused as a Responsible Party for case #250006, Order No. RS-2017-0709 123 W12th St. Alturas, CA.

I am 78 years with health issues. I am limited in my mobility and activities. Financial limitations prevent me from being able to participate in this matter. My only source of income is Social Security, with no other retirement income, or savings. Living only month to month, there are no extra funds to accommodate an expense like this. It would be counterproductive requiring me to be in this position only to default that obligation

In 1990 there was contamination discovered, which was assumed to have occurred from the previous owner. There was no evidence of any current leak at that time. I cooperated with the Central Valley Water Quality Control Board, until 2005, doing all that was requested of me.

On 21 November 2006, the UST Cleanup Fund was transferred to Roger Reddy of Reddy Enterprises Inc. Since that time I have had no contact with the water board. By reading the history report, it states that the Cleanup Fund Claim was cancelled in 2016?

Its apparent that the current property owner will comply with the Water Board requests if the cleanup fund would participate. The Cleanup fund should accommodate this matter, in order to resolve the issue, and get this site closed after 27 years!


Jerry Gilbert

Cc by mail: Jason Schroeder, Central Valley Water Board



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Central Valley Regional Water Quality Control Board

9 February 2018

Mr. Shabinder Singh
Modoc Mini Mart LLC
123 West 12th Street
Alturas, CA 96101

CERTIFIED MAIL:
7016 2140 0000 1629 6894

Mr. Shabinder Singh and Ms. Kulwinder Kaur
813 Western Street
Alturas, CA 96101

CERTIFIED MAIL:
7016 2140 0000 1629 6900

Mr. Raj Reddy
Reddy Enterprises, Inc.
7525 Ripplewood Court
Citrus Heights, CA 95621

CERTIFIED MAIL:
7016 2140 0000 1629 6917

Ms. Mary Kathleen Oates
Steve Goodwin, Inc.
P.O. Box 1684
Alturas, CA 96101

CERTIFIED MAIL:
7016 2140 0000 1629 6924

Mr. Jerry Gilbert
1 Rue de La Azure
Sparks, NV 89434

CERTIFIED MAIL:
7016 2140 0000 1629 6931

**CLEANUP AND ABATEMENT ORDER, UNDERGROUND STORAGE TANK CASE #250006,
FORMER GIL'S SHELL SS, 123 12TH STREET W, ALTURAS, MODOC COUNTY**

Enclosed is the Cleanup and Abatement Order (Order) issued to Modoc Mini Mart, LLC, Shabinder Singh and Kulwinder Kaur, Reddy Enterprises, Inc., Steve Goodwin, Inc. and Jerry Gilbert (collectively, Responsible Parties) for an unauthorized release of petroleum hydrocarbons which was discovered during a routine inspection conducted by the Central Valley Regional Water Quality Control Board (Central Valley Water Board) on 24 March 1990, at 123 West 12th Street in Alturas, California (Site). The Order requires the cleanup and abatement of the effects of pollution and nuisance originating at the Site.

On 19 September 2017, the Executive Officer of the Central Valley Water Board sent the Responsible Parties a draft Order via certified mail. All Responsible Parties were provided an

opportunity to submit comments on the draft Order prior to issuance of the enclosed Order.¹ All comments on the Draft Order were due no later than 19 October 2017.

Mr. Jerry Gilbert was the only Responsible Party to submit comments on the draft Order. On 12 October 2017, Mr. Gilbert submitted a letter explaining that the Gilbert Family Trust was dissolved. He provided additional documents to support removing the Gilbert Family Trust as a Responsible Party and naming Mr. Gilbert a Responsible Party as a previous Site owner.

Pursuant to California Water Code sections 13267 and 13304 and Health and Safety Code section 25296.10, the Responsible Parties are legally required to comply with the Order's directives.

In order to conserve paper and reduce mailing costs, a paper copy of the Order has been sent only to the Responsible Parties. Anyone who needs a paper copy of the Order can obtain one by calling Jason Schroeder, Central Valley Water Board staff, at the number below.

If you have any questions regarding the legal aspects of the Order, please contact Paul Ciccarelli, Staff Counsel, State Water Resources Control Board, Office of Enforcement at (916) 322-3227. If you have technical questions regarding this matter, please contact Jason Schroeder, Engineering Geologist with the Central Valley Water Board at (530) 224-4788 or at Jason.Schroeder@waterboards.ca.gov.



Clint E. Snyder, P.G.
Assistant Executive Officer

JS:hc

Enclosure: Cleanup and Abatement Order No. R5-2017-0709

cc by email
w/o encl: Paul Ciccarrelli, State Water Resources Control Board, Sacramento
Brian Newman, Regional Water Quality Control Board, Rancho Cordova
Robert L'Heureux, Regional Water Quality Control Board, Rancho Cordova
Andrew Altevogt, Regional Water Quality Control Board, Rancho Cordova

cc w/o encl: Chris Murray, Modoc County Division of Environmental Health, Alturas

¹ All Responsible Parties are determined to have received service of the draft Order sent via Certified Mail. Mr. Raj Reddy, who refused to sign for the Certified Mail, is on notice of the draft Order because he cannot deny notice when he deliberately avoided it. He cannot assert failure of service when he willfully disregarded a notice of Certified Mail delivered to his address. (See *Hankla v. Governing Bd.*, (1975) 46 Cal.App.3d 644, 833).

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

CLEANUP AND ABATEMENT ORDER NO. R5-2017-0709

FOR

**MODOC MINI MART, LLC
SHABINDER SINGH AND KULWINDER KAUR
REDDY ENTERPRISES, INC.
STEVE GOODWIN, INC.
JERRY GILBERT
123 WEST 12TH STREET, ALTURAS, CALIFORNIA
MODOC COUNTY**

This Order is issued to Modoc Mini Mart, LLC, Shabinder Singh and Kulwinder Kaur, Reddy Enterprises, Inc., Steve Goodwin, Inc., and Jerry Gilbert (collectively, Responsible Parties) 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, with respect to the Responsible Parties' acts, or failure to act, the following:

PROPERTY OWNERSHIP AND SITE OPERATIONS

1. The subject property is located at 123 W. 12th Street in Alturas, California, designated as Modoc County Assessor's Parcel Numbers (APNs) 002-101-11, 14, and 16 (Site).
2. According to a 22 June 1994 site history prepared by Porter Geotechnical, the Site has been used to store petroleum products since the 1940s.
3. Jerry E. Gilbert and Nancy E. Gilbert (collectively, Gilberts) purchased the Site from Regal Stations, Inc. (Formerly Wickland Oil Station) on 24 June 1983. The initial petroleum release was discovered during a Central Valley Water Board routine inspection on 24 March 1990. At that time, the Gilberts owned the Site and Jerry Gilbert operated a gasoline service station at the Site.
4. In February 1993, the Gilberts transferred their community property, including the Site, to the Gilbert Family Trust.
5. The Gilberts agreed to divorce and settle their community property interests in 1999. As memorialized in a Divorce Decree dated 14 December 1999, Nancy Gilbert resigned as trustee and beneficiary of the Gilbert Family Trust in November 1999. All assets and interest in the Gilbert Family Trust became Jerry Gilbert's separate property and he was authorized to administer the Gilbert Family Trust as its sole trustee and beneficiary. Jerry Gilbert also released Nancy Gilbert of any and all liabilities related to the Site.
6. On 31 January 2000, Jerry Gilbert, as trustee of the Gilbert Family Trust, sold the Site and another parcel to Steve Goodwin, Inc. The Gilbert Family Trust was reportedly dissolved

after the sale of the Site to Steve Goodwin, Inc. Steve Goodwin, Inc. operated the Site as a gasoline service station and store until December 2005.

7. On 27 December 2005, Steve Goodwin, Inc. sold the Site to Reddy Enterprises, Inc., which operated the Site as a gasoline service station and store until April 2007.
8. On 2 April 2007, Reddy Enterprises, Inc. sold the Site¹ to Shabinder Singh and Kulwinder Kaur, a husband and wife as Joint Tenants.
9. On 2 July 2014, Raj Reddy filed a Certificate of Dissolution for Reddy Enterprises, Inc. with the California Secretary of State. At the time of dissolution, Raj Reddy was listed as Reddy Enterprises, Inc.'s Agent for Service of Process, and the Certificate of Dissolution names Raj Reddy as the assumer of the corporation's debts and liabilities.
10. On 2 February 2015, Shabinder Singh and Kulwinder Kaur quit-claimed the Site to Modoc Mini Mart, LLC. Shabinder Singh is the Agent for Service of Process for Modoc Mini Mart, LLC.
11. Jerry Gilbert, individually, is named a responsible party under this Order because he owned the Site and the Site's USTs at the time of the initial petroleum release and operated the Site's USTs immediately before the discontinuation of their use in 1990. (See Cal. Code of Regs., tit. 23, § 2720(2).)
12. Steve Goodwin, Inc. is named a responsible party under this Order because this entity owned the Site where an unauthorized release of a hazardous substance from a UST has occurred. (See Cal. Code of Regs., tit. 23, § 2720(3).)
13. Reddy Enterprises, Inc. is named a responsible party under this Order because this entity owned the Site where an unauthorized release of a hazardous substance from a UST has occurred. (See Cal. Code of Regs., tit. 23, § 2720(3).)
14. Shabinder Singh and Kulwinder Kaur are named responsible parties under this Order because they owned the Site where an unauthorized release of a hazardous substance from a UST has occurred. (See Cal. Code of Regs., tit. 23, § 2720(3).)
15. Modoc Mini Mart, LLC is named a responsible party under this Order because this entity currently owns the Site where an unauthorized release of a hazardous substance from a UST has occurred. (See Cal. Code of Regs., tit. 23, § 2720(3).)

SITE BACKGROUND

1. According to a 25 September 1990 Work Plan for Site Assessment prepared by Kleinfelder, three USTs (one 10,000-gallon gasoline UST, one 5,000-gallon gasoline UST, and one 5,000-gallon diesel UST) were installed at the Site in 1983.
2. On 24 May 1990, a release of petroleum was reported during a routine UST inspection conducted by Central Valley Water Board staff. Soil analytical results from this inspection indicated total petroleum hydrocarbons as gasoline (TPHG) at 25 milligrams per kilogram (mg/kg) and TPH as diesel (TPHD) at 2,600 mg/kg. Groundwater results indicated elevated

¹ Although the first page of the deed only lists APN 002-101-11, Exhibit One attached to the deed describes three parcels (APNs 002-101-11, 002-101-14, and 002-101-16).

benzene at 1,100 micrograms per liter (ug/L), TPHD at 220,000 ug/L and TPHG at 14,000 ug/L.

3. According to Modoc County Health Department files, three USTs were removed from the Site on 13 December 1990, and three gasoline USTs were removed from the Site on 11 March 1991 (one 10,000-gallon UST, one 7,500-gallon UST, and one 5,000-gallon UST).
4. According to Modoc County UST Operating Permits, four USTs (10,000-gallon regular unleaded gasoline, 8,000-gallon premium unleaded gasoline, 10,000-gallon diesel, and 4,000-gallon empty) have been in place at the Site since 2005.
5. A 2 October 1995 Central Valley Water Board letter concluded that "severe levels of petroleum hydrocarbons (up to 53,000 ug/L TPH-gas and 6,600 ug/L benzene) remained under the Site and [were] present beyond property boundaries to the north, east, and west. The lateral edge of the plume was not defined in any direction." Central Valley Water Board staff requested submittal of an Interim Remediation Plan by 1 January 1996.
6. A 1 January 1996 Interim Remediation Plan, prepared by Porter Geotechnical on behalf of Jerry Gilbert, estimated the amount of TPHG and TPHD in the soil beneath the Site at 400 gallons and 450 gallons, respectively. The Interim Remediation Plan included a sensitive receptor survey that identified the City of Alturas Community Service Well #5 (ACWS #5) approximately 500 feet south of the Site and potentially downgradient.
7. On 13 January 1998, Central Valley Water Board staff issued a Notice of Violation (NOV) to Jerry Gilbert for failure to submit quarterly groundwater reports (QMRs) in 1997 for the Third and Fourth Quarters and failed to initiate the corrective actions described in the 1 January 1996 Interim Remediation Plan.
8. On 26 October 1998, Earth Engineers submitted a Corrective Action Plan (CAP) on behalf of Jerry Gilbert. The CAP recommended groundwater pumping and treatment along with soil vapor extraction as the selected remedy. In a 26 January 1999 letter, Central Valley Water Board staff acknowledged receipt of the CAP and requested additional clarification on a proposed secondary containment unit around the treatment system, procedures for the proposed aquifer investigation, and details relating to the disposal of treated groundwater. The additional information was due on 30 April 1999. The letter further required implementation of the CAP and submittal of remediation progress reports in the required QMRs.
9. On 27 December 1999, Central Valley Water Board staff issued a NOV to Jerry Gilbert because he failed to submit QMRs in 1999 for the Second and Third Quarters and failed to implement corrective actions as required by the 26 January 1999 Central Valley Water Board letter. The 27 December 1999 NOV required initiation of corrective action activities no later than 1 April 2000.
10. On 2 January 2001, Central Valley Water Board staff issued a NOV to Jerry Gilbert for his failure to submit monitoring data for the Site from January 1999 to January 2001 and failure to initiate corrective action.
11. In a 24 January 2001 letter, Steve Goodwin, Inc. informed Central Valley Water Board staff that it purchased the Site from the Gilbert Family Trust on 31 January 2000. The letter

indicated that Jerry Gilbert would continue to be the contact for Site investigation and contamination cleanup.

12. In a 2 March 2001 letter to Jerry Gilbert, Central Valley Water Board staff identified reporting deficiencies and requested additional information. The letter stated that further delineation of the methyl tertiary butyl ether (MTBE) plume was necessary and that ACWS #5 may be at risk.
13. On 23 August 2001, the Central Valley Water Board's Executive Officer issued a Water Code Section 13267 Order (13267 Order) to Jerry Gilbert requiring immediate resumption of groundwater monitoring and reporting at the Site. The 13267 Order stated that the petroleum release from the Site threatened ACWS #5.
14. The First Quarter 2003 QMR reported MTBE at 66,000 ug/L in a well located adjacent to the existing USTs. Analytical results from off-site well pair MW-15A/MW-15B indicated MTBE impacts in the deeper zone, but none in the shallow zone.
15. No quarterly groundwater sampling occurred during 2004, 2005, and 2006, and no QMRs were submitted between April 2003 and November 2006.
16. A 21 November 2006 letter from Porter Geotechnical, Inc., prepared on behalf of Roger Reddy of Reddy Enterprises, Inc., notified Central Valley Water Board staff that Reddy Enterprises, Inc. purchased the Site on 27 December 2005, a Site Corrective Action Plan (also known as a CAP) had not been prepared, and Jerry Gilbert could not be located. The letter asked that the State Water Resources Control Board's UST Cleanup Fund reassign the claim to Reddy Enterprises, Inc. so that it would be eligible for reimbursement of project costs associated with Site investigation and contamination cleanup.
17. On 2 April 2007, Shabinder Singh and Kulwinder Kaur purchased the property from Reddy Enterprises, Inc. Reddy Enterprises, Inc. maintained claimant status with the UST Cleanup Fund.
18. The UST Cleanup Fund's 12 May 2008 Preliminary 5-year Review Summary Report recognized the following: significantly higher MTBE concentrations in source area monitoring wells during a January 2007 monitoring event; poor delineation of the extent of Site contamination; and difficulties in implementing previously proposed corrective action remedies. Based on these conclusions, the UST Cleanup Fund recommended proper source delineation and source removal action.
19. In a 27 July 2009 letter, Central Valley Water Board staff notified Reddy Enterprises, Inc. that Site conditions warranted continued quarterly monitoring, despite adoption of the State Water Board Resolution No. 2009-0042 which allowed for semi-annual or less frequent monitoring. The CAP had been delinquent for four years, free product sheen was observed in MW-4 and MW-6, and wells showed "chronic aromatics and fuel oxygenates." Despite the 27 July 2009 directive to continue quarterly monitoring, the two reports submitted in 2010 were entitled "Bi-Annual Monitoring Reports."
20. Reddy Enterprises, Inc. failed to submit 2008 and 2009 QMRs, the First and Fourth Quarter 2010 QMRs, the First, Third, and Fourth Quarter 2011 QMRs, Second and Third Quarter 2012 QMRs, and First, Third, and Fourth Quarter 2013 QMRs.

21. On 21 March 2014, Central Valley Water Board issued a Water Code section 13267 Order to Reddy Enterprises, Inc. for failure to submit the work plan and required submittal of a work plan to install the additional downgradient monitoring wells and monthly sampling of ACWS #5 by 30 April 2014. Reddy Enterprises, Inc. failed to submit the work plan as required by the 13267 Order.
22. Reddy Enterprises, Inc. failed to submit QMRs in 2014, 2015, and 2016, as required by the 27 July 2009 Central Valley Water Board letter, and failed to implement an active remedy to address Site contamination.
23. On 2 February 2015, Shabinder Singh and Kulwinder Kaur quit-claimed the Site to Modoc Mini Mart, LLC.
24. In a 10 August 2016 letter to Modoc Mini Mart, LLC, Central Valley Water Board staff requested a work plan to install the additional downgradient monitoring wells and monthly sampling of ACWS #5. The work plan was due no later than 30 September 2016.
25. On 29 August 2016, Aric Morton of Broadbent & Associates (Broadbent) informed Central Valley Water Board staff that he was retained by Modoc Mini Mart, LLC to assist with the work plan required in the 10 August 2016 letter. Correspondence with Broadbent indicated that Modoc Mini Mart, LLC was trying to take over the UST Cleanup Fund claim from Reddy Enterprises, Inc. Central Valley Water Board staff's attempts to contact Roger Reddy of Reddy Enterprises, Inc. in order to reassign the claim were unsuccessful. Certified mail to Roger Reddy's last known address was returned.
26. According to UST Cleanup Fund staff, Reddy Enterprises, Inc. failed to distribute reimbursements to their consultant and contractors and the UST Cleanup Fund claim was cancelled in 2016.
27. In a 12 December 2016 letter to Modoc Mini Mart, LLC and Roger Reddy, Central Valley Water Board staff requested a status update regarding the case and transfer of the UST Cleanup Fund claim. The letter addressed to Roger Reddy was returned as unclaimed.
28. On 13 February 2017, Central Valley Water Board staff met with Broadbent and Shabinder Singh at the Site to discuss how to proceed with investigation and cleanup. Broadbent stated that it would look into alternative funding for the investigation and cleanup. Shabinder Singh cited financial hardship as justification for not complying with Central Valley Water Board directives.

LEGAL AUTHORITY

1. "Waste" is defined by Water Code section 13050, subdivision (d) as,

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 of whatever nature prior to, and for purposes of, disposal.
2. "Pollution" is defined by Water Code section 13050, subdivision (l)(1) as,

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 water for beneficial uses.
 - (B) Facilities which serve these beneficial uses.
3. The Central Valley Water Board's *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, 4th Edition* (the "Basin Plan") designates beneficial uses of the waters of the State, establishes water quality objectives (WQOs) to protect these uses, and establishes implementation policies to implement WQOs.
 4. The Basin Plan designates groundwater beneath the Site as supporting the following beneficial uses: municipal and domestic water supply; agricultural supply; industrial service supply; and industrial process supply.
 5. The Basin Plan contains a narrative WQO for chemical constituents which requires, in part, that groundwater not contain chemical constituents in concentrations that adversely affect any beneficial use. For groundwater that is designated for use as domestic and municipal supply, the Basin Plan incorporates by reference drinking water maximum contaminant levels (MCLs) promulgated in Chapter 15 of Title 22 of the California Code of Regulations (Title 22).
 6. The Basin Plan also establishes narrative WQOs for tastes and odors and toxicity. The taste and odor WQO requires, in part, that groundwater not contain taste or odor producing substances in concentrations that cause nuisance, adversely affect beneficial uses, or impart undesirable tastes and odors to municipal and domestic water supplies. The toxicity WQO requires, in part, that groundwater be maintained free of toxic substances in concentrations that produce detrimental physiological responses in human, plant, animal, or aquatic life associated with designated beneficial use(s).
 7. Waste constituents associated with releases at the Site, described in Findings 1 through 28, threaten to impart objectionable tastes and odors to groundwater, and threaten to produce detrimental physiological responses in humans if contaminated groundwater is used for municipal or domestic purposes. The waste constituents released at the Site threaten to adversely affect the designated beneficial uses of the underlying groundwater, thereby causing or threatening to cause a condition of pollution or nuisance as defined by Water Code section 13050.
 8. The State Water Board has adopted Resolution 92-49, which is included as Appendix 9 of the Basin Plan. Resolution 92-49 sets forth the policies and procedures to be used during an investigation and cleanup of a polluted site, and requires that cleanup levels be consistent with State Water Board Resolution No. 68-16, the *Statement of Policy with Respect to Maintaining High Quality Waters in California* (Resolution 68-16). Resolution 92-49 requires the waste to be cleaned up in a manner that promotes attainment of either background water quality, or the best water quality which is reasonable, if background levels of water quality cannot be restored. Any alternative cleanup level to background must:
 - (1) be consistent with the maximum benefit to 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 Water Board.Resolution 92-49 directs that investigations proceed in a

progressive sequence. To the extent practical, it directs the Regional Water Board to require and review for adequacy written work plans for each element and phase, and the written reports that describe the results of each phase of the investigation and cleanup.

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

A person who has discharged or discharges waste into waters of this state in violation of any waste discharge requirement or other order or prohibition issued by a regional board or the state board, or who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, shall, upon order of the regional board clean up the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including, but not limited to, overseeing cleanup and abatement efforts. Upon failure of a person to comply with the cleanup or abatement order, the Attorney General, at the request of the board, shall petition the superior court for that county for the issuance of an injunction requiring the person to comply with the order. In the suit, the court shall have jurisdiction to grant a prohibitory or mandatory injunction, either preliminary or permanent, as the facts may warrant.

10. Health and Safety Code section 25296.10, subdivision (a) states 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.

11. California Code of Regulations, title 23, section 2720 defines who is a "responsible party" for the purposes of cleaning up contamination resulting from a leaking underground storage tank, stating, in relevant part:

"Responsible party" means one or more of the following:

- (1) Any person who owns or operates an underground storage tank used for the storage of any hazardous substance;
- (2) In the case of any 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 property where an unauthorized release of a hazardous substance from an underground storage tank has occurred; and
- (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.

12. California Code of Regulations, title 23, section 2721, specifies that Responsible Parties shall comply with all Water Code provisions and any Orders issued by a regional water board when an unauthorized release from an underground storage tank has occurred.

13. Based on the above findings, the Responsible Parties are subject to this Order because they have caused or permitted waste to be discharged or deposited where it is, or probably

will be, discharged to waters of the State and creates, or threatens to create a condition of pollution or nuisance. The Central Valley Water Board is authorized to order Modoc Mini Mart, LLC, Shabinder Singh and Kulwinder Kaur, Reddy Enterprises, Inc., Steve Goodwin, Inc., and Jerry Gilbert to cleanup and abate the effects of the waste discharges pursuant to Water Code section 13304 and Health and Safety Code section 25296.10.

14. Water Code section 13267, subdivision (a) provides that the Central Valley Water Board may investigate the quality of any water of the State within its region in connection with any action relating to the Basin Plan. Water Code section 13267, subdivision (b), states that the Board, in conducting an investigation, may require a discharger (Responsible Parties) to furnish, under penalty of perjury, technical or monitoring reports. The technical reports required by this Order are necessary to ascertain the nature and extent of unauthorized releases at the Site and the threat that Site contamination may still pose to members of the public and to the environment, to evaluate progress towards cleaning up and abating conditions of pollution or nuisance found at the Site, and to ensure compliance with all applicable laws, regulations, and policies. The findings in this Order provide the Responsible Parties with a written explanation of the basis for requiring the submittal of the reports and demonstrate that the burden of providing the required reports bears a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. Pursuant to California Code of Regulations, title 23, sections 3890-3895, Responsible Parties must submit electronic laboratory data (i.e., soil, soil gas/vapor, or water chemical analyses) and locational data (i.e., longitude/latitude coordinates and surface elevation of monitoring wells), and other data generated in conjunction with environmental cleanups, to the State GeoTracker database. Additional information regarding requirements pertaining to the electronic submission of data can be found at <http://geotracker.waterboards.ca.gov>.
15. Pursuant to California Water Code section 13304, the Central Valley Water Board is entitled to, and will seek reimbursement for, all reasonable costs actually incurred by the Central Valley Water Board to investigate unauthorized discharges of waste and oversee cleanup of such waste, abatement of the effects thereof, or other action required by this Order.
16. This Order will require Responsible Parties to conduct an investigation, perform regular monitoring, develop a remedial action plan for the Board's approval (if the investigation finds that a remedial action plan is necessary), and implement any required remedial action plan once it is approved. While the Board may need to evaluate potentially significant environmental impacts associated with implementing the work plan pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.), the Board is not required to engage in speculation about what those impacts would be before the investigation is conducted and before a remedial action plan is submitted. As for the remaining requirements imposed by this Order (the initial investigation, the regular monitoring, and the development of any required remedial action plan), the Board finds that it can be seen with certainty that undertaking these actions will not have a significant effect on the environment. (Cal. Code. Regs., tit. 14, § 15061, subd. (b)(3).) Should additional environmental review be required in connection with future discretionary regulatory actions at the Site, the Board may recover the costs associated with preparing and processing environmental documents from the Responsible Parties. (Pub. Resources Code, § 21089.)

REQUIRED ACTIONS

IT IS HEREBY ORDERED THAT, pursuant to Water Code sections 13267 and 13304 and Health and Safety Code section 25296.10, Modoc Mini Mart, LLC, Shabinder Singh and Kulwinder Kaur, Reddy Enterprises, Inc., Steve Goodwin, Inc., and Jerry Gilbert shall:

1. Provide reasonable access to Central Valley Water Board staff and representatives to conduct inspections, ensure compliance with this Order and other applicable Orders of the Central Valley Water Board, and take other actions as necessary to implement the Water Code, Division 7.
2. **Within 30 days of adoption of this order**, conduct groundwater sampling of ALL groundwater wells associated with the Site including MW-1, MW-2, MW-3, MW-4, MW-5, MW-6, MW-7, MW-8, MW-11A, MW-13A, MW-13B, MW-14A, MW-14B, MW-15A, MW-15B, MW-16A, MW-16B, MW-18A, MW-18B, MW-19A, MW-19B, EW-1, EW-2, and EW-3. All groundwater samples are to be submitted for laboratory analysis for the following constituents: TPHD, TPHG, benzene, toluene, ethylbenzene, xylenes, and fuel oxygenates including MTBE, tert-Butyl alcohol (TBA), and tertiary-amyl methyl ether (TAME). This data will be used to determine the current Site conditions and used as the basis for designing a groundwater monitoring program.
3. **Within 30 days of adoption of this order**, commence monthly sampling of Municipal Well ACWS #5. The groundwater samples collected from the municipal well are to be submitted for laboratory analysis for the following constituents: TPHD, TPHG, benzene, toluene, ethylbenzene, xylenes, and fuel oxygenates including MTBE, TBA, and TAME. Monthly sampling results shall be reported to Central Valley Water Board staff within 7 days of receiving the final laboratory report or by the 25th of the month following sampling (i.e., February 2018 sample results are due by 25 March 2018). Any exceedances of drinking water standards shall be reported immediately to Central Valley Water Board staff, Jason Schroeder, via email at Jason.Schroeder@waterboards.ca.gov or phone at 530-224-4788 but no later than 48 hours from receiving the data.
4. Based on the results of items 2 and 3 above, the Responsible Parties shall prepare and submit a comprehensive remedial action plan (RAP) no later than **25 April 2018** for the Assistant Executive Officer's approval. At a minimum, the RAP shall include proposals for the following:
 - a. a time schedule that is sufficiently scoped to abate the contamination attributed to the Site's UST system releases;
 - b. installation of additional downgradient wells (compliance wells) as necessary to ensure that MTBE and any other contaminants of concern are not migrating toward ACWS #5; and
 - c. a contingency plan to be enacted in the event that MTBE or other contaminants of concern are detected in existing downgradient compliance wells (MW-16A, MW-16B, MW-19A, and MW-19B) and the proposed compliance wells (to be installed immediately upgradient of ACWS #5).

5. **Within 60 days of Central Valley Water Board approval of the RAP**, the Responsible Parties shall implement the RAP in accordance with the time schedule approved by the Assistant Executive Officer. Reporting of results shall be submitted in accordance with the schedule approved by the Assistant Executive Officer.
6. Upon adoption of this Order, the Responsible Parties shall **immediately recommence** on-going quarterly groundwater monitoring and sampling necessary to characterize Site conditions, gauge the effectiveness of corrective action measures, and determine the threat of groundwater contamination to ACWS #5. Quarterly monitoring of all onsite and offsite wells shall be conducted once per calendar quarter or four times annually upon adoption of this Order. Quarterly Monitoring Reports shall be submitted within 30 days of the end of each calendar quarter. Quarterly Reports will therefore be due on April 1, July 1, October 1, and February 1. These activities shall initially include, but are not limited to, conducting groundwater gauging in Site monitoring wells, measuring free product thicknesses in Site wells, and sampling and analysis of the dissolved phase plume constituents in Site monitoring wells. Changes in scope and sampling frequency shall be approved by the Assistant Executive Officer.
7. Upon adoption of this Order, conduct the necessary activities as described above and approved by the Assistant Executive Officer, regarding Site investigation and cleanup activities. **Within 10 days after closure of each quarterly period**, submit quarterly progress reports to the Assistant Executive Officer regarding such activities. The quarterly progress reports shall include a detailed discussion regarding all testing and data collected during the reporting period, the relative effectiveness of any cleanup efforts, recommendations for any additional assessment or testing needed to characterize or delineate Site contamination, and any additional assessment and testing needed to assess remedial effectiveness.
8. In the event that any corrective action efforts are determined by the Assistant Executive Officer to be inadequate, the Responsible Parties shall submit a revised RAP within 60 days of being notified of such a determination that proposes a revised corrective action strategy capable of achieving the remedial objectives for contaminated soil, groundwater, and/or abatement of soil vapor emissions for protection of human health, as set forth by the Assistant Executive Officer. Upon approval, the revised RAP shall be implemented in accordance with deadlines set forth by the Assistant Executive Officer.
9. All references to the Assistant Executive Officer in this Order shall include his/her delegate.
10. All technical reports required herein that involve planning, investigation, evaluation, design, or other work requiring interpretation and proper application of engineering or geologic sciences, shall be prepared by or under the direction of persons registered to practice in California pursuant to California Business and Professions Code sections 6735, 7835, and 7835.1. As required by these laws, completed technical reports must bear the signature(s) and seal(s) of the registered professional(s) in a manner such that all work can be clearly attributed to the professional responsible for the work.
11. Responsible Parties must notify Central Valley Water Board staff at least three working days prior to any onsite work, testing, or sampling that pertains to environmental remediation and investigation and is not routine monitoring, maintenance, or inspection.

12. All technical reports submitted by the Responsible Parties shall include a cover letter signed by the Responsible Parties, or a duly authorized representative, certifying under penalty of law that the signer has examined and is familiar with the report and that to their knowledge, the report is true, complete, and accurate. The Responsible Parties shall also state if it agrees with any recommendations/proposals and whether it approves implementation of said proposals. Any person signing a document submitted under this Order shall make the following certification:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my knowledge and on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

13. Pursuant to Water Code section 13304, the Board is entitled to, and may seek reimbursement for, all reasonable costs it actually incurs investigating and abating the effects of the unauthorized discharges of waste and to oversee/supervise the cleanup of such waste, or other remedial action, required by this Order. The Responsible Parties shall enroll in the State Water Board's Cost Recovery Program and shall reimburse the State of California for all reasonable costs actually incurred by the Central Valley Water Board.
14. If for any reason, the Responsible Parties are unable to perform any activity or submit any document in compliance with the schedule set forth herein, or in compliance with any work schedule submitted pursuant to this Order and approved by the Assistant Executive Officer, the Responsible Parties may request, in writing, an extension of the time specified. The extension request shall include justification for the delay. Any extension request shall be submitted as soon as a delay is recognized and prior to the compliance date. An extension may be granted by revision of this Order or by a letter from the Assistant Executive Officer. The Board acknowledges that local, state, and federal permits may cause a delay beyond the control of the Responsible Parties and will take all the available relevant facts into consideration when considering whether or not to grant an extension request.
15. All work and directives referenced in this Order are required regardless of whether or not the UST Cleanup Fund approves the work for reimbursement.
16. All monitoring reports, technical reports, formal correspondence or notices required under this Order shall be uploaded to GeoTracker. As necessary, informal correspondence may be emailed to Jason.Schroeder@waterboards.ca.gov. Any hard copies may be submitted to:

Jason Schroeder
Central Valley Regional Water Quality Control Board
364 Knollcrest Dr., Suite 205
Redding, CA 96002

If, in the opinion of the Assistant Executive Officer, the Responsible Parties fail to comply with the provisions of this Order, the Assistant 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 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, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:

http://www.waterboards.ca.gov/public_notices/petitions/water_quality

or will be provided upon request.

This Order is effective upon the date of signature.

This Order is issued under authority delegated to the Executive Officer by the Central Valley Water Board pursuant to Resolution R5-2009-0027 and is effective upon signature.

Original signed by

PAMELA C. CREEDON
Executive Officer

2/6/18

(Date)