

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

ORDER No: R2-2016-0028

**RESCISSION OF CLEANUP AND ABATEMENT (ORDER No. R2-2004-0066) for:
USA PETROLEUM and GEORGE DONOVAN**

for the property located at:

200 SERRA WAY
MILPITAS, SANTA CLARA COUNTY

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

1. **Regional Water Board Order:** The Regional Water Board issued a cleanup and abatement order for the site located at 200 Serra Way in Milpitas (Site) on August 11, 2004 (Order No. R2-2004-0066). The order names USA Petroleum and George Donovan as the dischargers.
2. **Compliance with Board Order:** The order required the dischargers to define the extent of pollution at the Site and implement a remedial action plan. The dischargers have completed these tasks.
3. **Basis for Rescission:** Rescission of Order No. R2-2004-0066 is appropriate because the Site meets the low-threat closure criteria in the State Water Board's 2012 Low-Treat Underground Storage Tank Case (UST) Closure Policy as discussed below:

General Criteria

- a. **The unauthorized release is located within the service area of a public water system**
The Site and surrounding vicinity is serviced by the City of Milpitas. There are no public water supply wells within one mile of the Site.
- b. **The unauthorized release consists only of petroleum**
The Site's unauthorized release has been characterized as a release of petroleum-based products (gasoline, diesel, motor oil).
- c. **The unauthorized ("primary") release from the UST system has been stopped**
Petroleum storage and handling facilities, the sources of the release, were removed from the Site in August 1998.
- d. **Free product has been removed to the extent practicable**
Free product was observed at wells MW1, MW8, and MW25 between 1988 and 2002 and has not been encountered in Site wells since 2002. Remedial actions have removed the free product to the extent practicable.
- e. **A conceptual site model that assesses the nature, extent, and mobility of the release has been developed**
Elements of a conceptual site model (CSM) were included in the updated CSM dated July

27, 2009. Components of a CSM have also been provided in supplemental documents. The CSM satisfactorily assesses the nature, extent, and mobility of the release.

f. **Secondary source has been removed to the extent practicable**

Extensive soil excavation in October 1997, December 1999, and July 2001 removed a total of approximately 5,584 tons of soil for offsite disposal. A dual-phase extraction system operated from April 2006 to March 2007 and removed approximately 2,662 pounds of gasoline. A soil vapor extraction system operated from March 2007 to July 2008 and removed approximately 247 pounds of gasoline.

g. **Soil or groundwater has been tested for MtBE and results reported in accordance with Health and Safety Code section 25296.15**

Groundwater was most recently tested for the fuel oxygenate methyl tert-butyl ether (MtBE) in July 2014. The highest current concentration of MtBE (960 µg/L) was detected at shallow groundwater well MW-32 that is located in the interior of the Site. This concentration is below the Low Threat Closure Policy's criteria of 1,000 µg/L.

Concentrations of MtBE detected in samples collected at well MW-32 fluctuated between 36 µg/L and 1,000 µg/L between 2010 and 2014. The extent of MtBE at concentrations greater than 500 µg/L in shallow groundwater is localized to the interior of the Site near wells MW-19, MW-32, and MW-36. MtBE was detected in one groundwater sample collected from a deeper zone at 0.86 µg/L. Because the source of the MtBE has been removed, the concentrations of MtBE in shallow groundwater are expected to decrease over time.

h. **Nuisance as defined by Water Code section 13050 does not exist at the site**

Conditions satisfying the definition of a nuisance as defined in Water Code section 13050 do not exist at the Site.

Media-Specific Criteria

i. **Groundwater**

The Site meets Class 5 because, based on an analysis of site-specific conditions under current and reasonably anticipated near-term future scenarios, the contaminant plume poses a low threat to human health and safety and to the environment, and water quality objectives will be achieved within a reasonable time frame.

j. **Petroleum Vapor Intrusion to Indoor Air**

The Site meets Scenario 4 because soil vapor concentrations are less than the residential soil vapor criteria for sites with a bioattenuation zone. One of 11 soil vapor samples collected 5 feet below ground surface (bgs) contained benzene at 1,100 micrograms per cubic meter (µg/m³). One other soil vapor sample contained benzene at 220 µg/m³, and the other 9 soil vapor samples did not contain benzene at concentrations greater than the laboratory reporting limit. The residential soil vapor criteria for a site with a bioattenuation zone is 85,000 µg/m³. Concentrations of oxygen in soil vapor samples collected 5 feet bgs ranged from 1.5 to 19 percent.

k. **Direct Contact and Outdoor Air Exposure**

The Site meets Criteria A because the maximum concentrations of petroleum constituents in soil between 0 and 10 feet bgs are less than the soil criteria for a commercial / industrial land use and for a utility worker scenario.

4. **Next Steps Prior to Case Closure:** The groundwater monitoring wells owned by the dischargers need to be properly closed before this case is closed by the Regional Water Board, to eliminate vertical conduits for potential future groundwater contamination.
5. **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 because maximum contaminant levels designed to protect human health and ensure that water is safe for domestic use are and will continue to be met in existing and future supply wells. The extent of contamination from the Site does not reach any water supply wells and is not expected to migrate to any water supply wells.
6. **CEQA:** This action rescinds an order to enforce the laws and regulations administered by the Regional Water Board. Rescission of the order is not a project as defined in the California Environmental Quality Act (CEQA). There is no possibility that the activity in question may have a significant effect on the environment (California Code of Regulations., title 14 §§ 15378 and 15061, subdivision (b) (3)).
7. **Notification:** The Regional Water Board has notified the dischargers and all interested agencies and persons of its intent under Water Code section 13304 to rescind the cleanup and abatement order for the discharge and has provided them with an opportunity to submit their written comments.

IT IS HEREBY ORDERED, pursuant to section 13304 of the Water Code, that Order No. R2-2004-0066 is rescinded.

IT IS FURTHER ORDERED that the dischargers shall properly close all the groundwater monitoring wells consistent with applicable local agency requirements, and shall document such closure in a technical report to be submitted to the Regional Water Board within 30 days following the completion of closure activities.

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 June 9, 2016.

Bruce H. Wolfe
Executive Officer

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
