

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

STAFF SUMMARY REPORT – Cherie McCaulou  
MEETING DATE: April 14, 2010

ITEM: 5.C

SUBJECT: **Emergency, Abandoned, and Recalcitrant (EAR) Underground Storage Tank Account** – Adoption of Resolution Supporting Nominations to State Water Resources Control Board’s EAR Account

CHRONOLOGY: April every year – Board adopted EAR resolution

DISCUSSION: The Revised Tentative Resolution (Appendix A) nominates three leaking underground fuel tank sites in our region for inclusion in the State Board EAR Account for fiscal year 2010-11. Supporting documentation for these nominations can be found in Appendix B.

EAR Program Description

The Health and Safety Code authorizes the State Board to provide limited funding to regional water boards and local oversight programs for initiating direct cleanup of high-priority “emergency” leaking underground fuel tank sites requiring immediate corrective action to protect human health, safety, and the environment. The funding is also available for “abandoned sites” where the discharger cannot be located, or “recalcitrant sites” where the discharger is unable or unwilling to comply with corrective action directives. The State Board has established an EAR Account for this purpose, and requests site nominations each year. For the State Board to consider a site for its EAR Account, a regional water board resolution must be passed each fiscal year to nominate or re-nominate the site.

EAR Nominations from this Region

Over the past several years, this region has successfully nominated several leaking underground fuel tank sites in our region to receive EAR funds. Most sites require funding for three to five years to complete investigation and cleanup. This year, we recommend the following sites be nominated:

**Panesar Beacon (Fremont)**

This site is overseen by the Alameda County Water District and is already on the EAR list for \$100,000, and is being re-nominated. Soil impacts were observed during removal of four underground storage tanks in 2002, but we do not know if groundwater has been impacted. The property owners have been unresponsive to numerous District directives. This site has been abandoned ever since the tanks were removed. The City of Fremont has

taken actions to backfill the excavation that was left open, and has demolished the building onsite. The District anticipates that necessary investigation and cleanup work will take place next fiscal year.

**Rainer Service Station (East Palo Alto)**

This site is overseen by the San Mateo County Environmental Health Department and is being nominated for the first time. Soil and groundwater impacts were discovered in 1999 and 2004. The property owners have not taken any actions to cleanup or abate the effects of the unauthorized releases and have been unresponsive to regulatory directives from several agencies. The Department has requested \$150,000 for necessary investigation and cleanup work over the next two fiscal years.

**All Star Service, Inc., aka All Star, Inc. (UST operator) (Concord)**

This site is overseen by our agency and is being nominated for the first time. This will also be the first time one of our own sites has been nominated. Soil and groundwater impacts were discovered in 1998. The responsible parties (tank operators and property owners) have a long-standing pattern of non-compliance with our cleanup directives. This Board has imposed Administrative Civil Liability on two separate occasions. We are requesting \$200,000 initially although additional funds may be needed.

Public Comments

We circulated the draft tentative resolution for public comment on February 11, 2010, and received two additional requests for nomination by the comment period deadline (the second and third items listed above). We revised the draft resolution to include these two additional sites and expect this item to remain uncontested.

RECOMMEN-  
DATION:

Adopt the Revised Tentative Resolution

File No.

1121.64 (ccm)

Appendices:

A. Revised Tentative Resolution

B. - Alameda County Water District letter dated February 3, 2010

- San Mateo County Environmental Health application dated March 16, 2010

- Regional Water Board application dated March 17, 2010

# Appendix A

## Revised Tentative Resolution

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

**REVISED TENTATIVE RESOLUTION**

EMERGENCY, ABANDONED, RECALCITRANT (EAR) UNDERGROUND STORAGE TANK ACCOUNT NOMINATION REQUEST FOR:

- PANESAR BEACON, 3740 PERALTA BOULEVARD, FREMONT, ALAMEDA COUNTY
  
- RAINIER SERVICE STATION, 1905 EAST BAYSHORE ROAD, EAST PALO ALTO, SAN MATEO COUNTY
  
- ALL STAR SERVICE, INC., AKA ALL STAR, INC. (UST OPERATOR), 1791 PINE STREET, CONCORD, ALAMEDA COUNTY

Whereas, Chapter 6.75 of the Health and Safety Code authorizes Regional Water Quality Control Boards (Regional Water Boards) and Local Oversight Programs (LOPs) to take corrective action at petroleum underground storage tank sites where unauthorized releases have occurred; and

Whereas, the State Water Resources Control Board (State Board) has established administrative procedures for providing cleanup funds to Regional Water Boards and LOPs, which include adoption of EAR Account Priority Lists annually every July; and

Whereas, the State Board has requested that the Regional Water Boards ask LOPs to nominate petroleum underground storage tank sites for inclusion on the annual State Board EAR Account Priority List; and

Whereas, the California Regional Water Quality Control Board, San Francisco Bay Region (Water Board) has identified one site for re-nomination and two sites for nomination to the Fiscal Year 2010-2011 EAR Account Priority List, for the reasons given below:

- a. **Panesar Beacon, 3740 Peralta Boulevard, Fremont**  
The Alameda County Water District (ACWD), by letter dated February 3, 2010, seeks re-nomination of the property located at 3740 Peralta Boulevard, Fremont, for inclusion on the annual EAR Account Priority List, to investigate soil and groundwater contamination and to conduct remediation of source areas. ACWD is not requesting additional funding for Fiscal Year 2010-2011, but only that the site remains on the EAR Account Priority List and eligible to receive the \$100,000 funding approved thus far by the State Board. Unauthorized releases of gasoline and diesel discovered in 2002 during removal of underground storage tank systems have adversely impacted soil and possibly groundwater at the property. The property is located approximately 1,500 feet from ACWD's groundwater recharge facilities, which provides recharge to the Niles Cone Groundwater Basin.

The property owners are recalcitrant and have failed to comply with ACWD regulatory directives to take corrective action to determine the lateral and vertical extent of soil and groundwater contamination.

- b. Rainer Service Station, 1905 East Bayshore Road, East Palo Alto**  
The San Mateo County Environmental Health LOP, by application dated March 16, 2010, seeks nomination of the property located at 1905 East Bayshore Road, East Palo Alto, for inclusion on the annual Board EAR Account Priority List for a funding allocation of \$150,000 over two fiscal years for a total of \$150,000 to remove non-compliant underground storage tanks and to investigate soil and groundwater contamination and potential impacts to nearby residential wells. Additional funding may be needed in the future for remediation. Unauthorized releases of gasoline and fuel oxygenates discovered in 1999 and 2004 have adversely impacted the property at 1905 East Bayshore Road, East Palo Alto. The property is located approximately 500 feet from the San Francisquito Creek, and five residential wells are within 1000 feet. The lateral and vertical extent of contamination has not been defined. The property owners are recalcitrant and have failed to comply with regulatory directives of the Menlo Park Fire Department, the San Mateo County Environmental Health LOP, and the Bay Area Air Quality Management District. Due to multiple code violations, gasoline sales and distribution have ceased, but the property owners continue service and repair operations at the site.
- c. All Star Service, Inc., aka All Star, Inc. (UST operator), 1791 Pine Street, Concord**  
The Water Board, by application dated March 17, 2010, seeks nomination of the property located at 1791 Pine Street, Concord, for inclusion on the annual EAR Account Priority List for an annual funding allocation of \$200,000 to investigate soil and groundwater contamination, assess preferential pathways and vapor intrusion risks, and implement corrective actions. Unauthorized releases of gasoline and fuel oxygenates discovered in 1998 have impacted the soil and groundwater at the property located at 1791 Pine Street, Concord. The property is located in close proximity to Pine Creek. The lateral and vertical extent of contamination has not been defined. The responsible parties are recalcitrant and have failed to comply with the Water Board's regulatory directives or pay the imposed administrative civil liabilities and settled penalties.

Whereas, Water Board staff used local agency submittals and its own recommendations to propose an annual priority nomination list comprising the properties located at 3740 Peralta Boulevard, Fremont, Alameda County; 1905 East Bayshore Road, East Palo Alto, San Mateo County; and 1791 Pine Street, Concord, Contra Costa County.

Therefore, Be It Resolved, the Water Board requests the State Board to re-nominate the property located at 3740 Peralta Boulevard, Fremont, Alameda County, and to nominate the properties located at 1905 East Bayshore Road, East Palo Alto, San Mateo County, and 1791 Pine Street,

Concord, Contra Costa County, for the Fiscal Year 2010-2011 Annual EAR Account Priority List; and

Be It Further Resolved, the Executive Officer is directed to forward the Board's Fiscal Year 2010-2011 Annual EAR Account Priority List nomination to the State Water Board for inclusion of these three sites in the Statewide List.

I, Bruce H. Wolfe, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of a resolution adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on \_\_\_\_\_.

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Bruce H. Wolfe  
Executive Officer

## Appendix B

ACWD Letter and SMCEH and  
Regional Water Board Applications

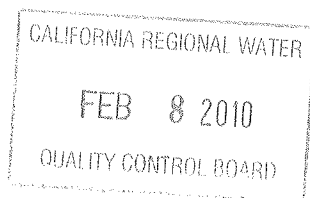


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STEVE PETERSON  
Operations Manager  
ROBERT SHAVER  
Engineering Manager

February 3, 2010



Mr. Stephen Hill  
Toxics Cleanup Division  
Regional Water Quality Control Board  
San Francisco Bay Region  
1515 Clay Street, Suite 1400  
Oakland, CA 94612

Dear Stephen:

Subject: Case Nomination for the Emergency, Abandoned, Recalcitrant (EAR) Account Fiscal Year 2010/2011 Annual Sites List – Panesar Beacon, 3740 Peralta Boulevard, Fremont (ACWD Site #349)

The Alameda County Water District (ACWD) is requesting the Regional Water Quality Control Board to renominate the subject leaking underground fuel tank site, Panesar Beacon, 3740 Peralta Boulevard, Fremont, to be included on the State Water Resources Control Board's (State Board) EAR Account Annual Site List for the upcoming fiscal year (FY) 2010/2011. For fiscal year 2008/2009 this site was nominated to the EAR Account, and has been approved for funding in the amount of \$100,000. For the upcoming fiscal year 2010/2011, ACWD is not requesting additional funding, but only that the site remains on the EAR Account List and eligible to receive the funding approved thus far.

ACWD's request for funding is due to the severity of the release, the threat to drinking water supplies, and the recalcitrant nature of the owner to perform necessary soil and groundwater investigations and appropriate cleanup activities. ACWD is currently in the process of preparing a scope of work and budget in order to formally enter into a contract with the State Board.

If you have any questions regarding this letter, please contact Ranga Sampath at (510) 668-4411.

Sincerely,

Steven D. Inn  
Groundwater Resources Manager

tb/ps

cc: Tom Berkins, ACWD  
Cherie McCaulou, Regional Water Quality Control Board  
Judy Reid, State Water Resources Control Board



San Mateo County Environmental Health  
EAR Account Application  
for Rainer Service Station  
SITE SPECIFIC INFORMATION  
March 16, 2010

1) **Site name and address:**

Rainer Service Station  
1905 East Bayshore Road, East Palo Alto, CA 94303  
San Mateo Case No. 890016  
Region 2 RWQCB No. 41-4053  
Geotracker Global ID No. T0608140462

2) **Name and address of all identified potential RPs:**

Henry Rainer (business operator and owner)  
Rainer Service Station  
1905 E Bayshore Rd  
E Palo Alto, CA 94303

Henry Rainer Trust (property owner)  
6 Demopolis Street  
Greensboro AL 36744

3) **A copy of the final corrective action order or cleanup and abatement order for each site:**

See attached corrective action directives dated October 11, 2005.

4) **The name and address of the oversight agency (the agency requesting the direct site funding), including the name and telephone number of the regulatory contact person:**

San Mateo County Environmental Health  
2000 Alameda de las Pulgas, Suite 100  
San Mateo, CA 94403

Charles Ice, P.G. (650) 372-6295  
Greg Smith, P.G. (650) 372-6279

**5) A description of the unauthorized release, petroleum products released, water body affected or threatened, water quality, and the threat to human health, safety and the environment:**

A gasoline release from Rainer's Service Station's underground storage tank (UST) system was first detected in 1999 after 6 borings were advanced around the UST system's tank hold as a condition for potentially relining the three tanks to comply with the 1998 tank upgrade requirements. The fuel release has impacted the soil and groundwater at the site and been verified in groundwater on the downgradient adjacent property and likely exists further downgradient into a residential neighborhood with residential wells used for unknown purposes. A newer release was indicated during compliance sampling for UST system upgrades associated with the western dispenser island conducted by the responsible party at this site in November 2004.

Total petroleum hydrocarbons as gasoline, benzene, toluene, ethylbenzene, xylenes, and MtBE have been detected in soil and groundwater associated with the release from 1999, and also from the apparent newer release for the UST system detected in 2004. The newer release has also detected n- and sec-butyl-benzenes, 1,2,4- and 1,3,5-trimethylbenzenes, naphthalene, isopropylbenzene, and n-propylbenzene in soil samples.

The site is in the Santa Clara Groundwater Basin – San Mateo Plain sub-basin and is located approximately 1 mile from the San Francisco Bay and approximately 500 feet from San Francisquito Creek. Both surface water bodies are considered down- to cross-gradient from the site.

The maximum concentrations of contaminants detected in samples from groundwater monitoring wells on site, last sampled in June 2005, were 460 micrograms per liter ( $\mu\text{g/L}$ ) TPH-gasoline, 45  $\mu\text{g/L}$  benzene, and 1,400  $\mu\text{g/L}$  MtBE (TAME also detected at 20  $\mu\text{g/L}$  the last time it was analyzed for in September 2004). The maximum concentrations of contaminants detected off-site (adjacent downgradient property) in samples from groundwater monitoring wells, last sampled in June 2005, were 52  $\mu\text{g/L}$  TPH-gasoline, <0.5  $\mu\text{g/L}$  benzene, and 460  $\mu\text{g/L}$  MtBE. The adjacent downgradient property (1961 East Bayshore Road) owner (Public Storage) performed a voluntary investigation in November 2008 and detected maximum concentrations of fuel oxygenates in grab groundwater samples at 94  $\mu\text{g/L}$  MtBE and 20  $\mu\text{g/L}$  tert-butanol.

Five private residential wells were documented within 1,000 feet of the site. The nearest downgradient well is approximately 800 feet from the site, while the nearest cross-gradient well is approximately 300 feet from the site. Sampling was required by SMCEH LOP be performed, but has never been offered to the identified residential well owners by the responsible party. Total dissolved solids have not been detected above 3,000 milligrams per liter and the shallow water-bearing zone has not been demonstrated to yield less than 200 gallons per day. Therefore, the

shallow water bearing zone is considered as having a potential drinking water use and the residential wells, potentially installed prior to a local well ordinance, may be used for any number of purposes by the well owner. Groundwater in the area is used as a drinking water resource for at least one state regulated drinking water supply system.

The extent of the MTBE and other fuel oxygenates plume and impacts to the groundwater basin to date are undefined. It is unknown if the contaminant plume is impacting known or unknown residential wells. It is also unknown the extent and impacts of the apparent newer release.

Of note, the current UST system is considered out of compliance with the Menlo Park Fire Department under Fire code regulations, San Mateo County CUPA for Health and Safety code regulations, and the Bay Area Air Quality Management District (BAAQMD) for issues regarding their permit to operate. THE BAAQMD removed the dispenser hoses from the facility in early 2009 regarding the permit issues. The CUPA enforced against the responsible party under an Authorized Enforcement Order for various violations regarding the UST system. The CUPA and the LOP have referred the responsible party to the District Attorney for enforcement actions for failure to comply with various sections of the Health and Safety Code. The Menlo Park Fire Department is demanding the USTs be removed rather than allowing the tank system to get back up to code.

**6) Documentation of why emergency response or prompt action is required if emergency or prompt action funds are being requested for a site:**

MTBE and fuel oxygenates were discovered in soil and groundwater sampled on the site and the adjacent downgradient property. Residential wells have been identified, with potentially more unknown to San Mateo County, cross- to downgradient from the site. The responsible party has been recalcitrant since 2005 after a requirement was made to offer sampling of the residential wells to the well owners. The residential wells may be used for a variety of purposes not regulated by San Mateo County or any other regulatory entity.

An apparent newer release was discovered in 2004 in association with UST system upgrades. The responsible party has failed to investigate the extent and impacts of this apparent newer release after being required to do so by SMCEH LOP in October 2005. Interim remedial action in the form of limited soil excavation may have, and may still, be needed. It is also unknown if the apparent newer release has continued undetected by the current UST system monitoring equipment or if an even newer release has occurred due to all of the problems the RP has had in complying with Health and Safety Code regulations regarding the UST system.

Further, the current UST system is violating several Fire and Health and Safety codes and needs to be removed for a variety of reasons, not the least of which is the possibility of a catastrophic explosion, even though the CUPA has requested all

actions to prevent such a situation. The past performance of the RP does not lead one to believe all conditions of the temporary, but unpermitted, closure will definitely remain in place or be properly and diligently maintained to prevent such a situation.

**7) A description of why the RP cannot or will not clean up the contamination or abate its effects:**

The RP has not complied with the directives for investigation and cleanup of soil and groundwater contamination at his site issued by SMCEH LOP. The RP has claimed an inability to fund corrective action or understand the requests made by SMCEH LOP. The RP can not operate the gas station at this time but does continue to operate a service repair station on the site. The RP has been accepted into the UST Cleanup Fund and been distributed reimbursements for work conducted at this site in the past. However, the UST Cleanup Fund has also investigated this RP for potentially not paying the contractors once reimbursement money has been issued to the RP. In 1994, the San Mateo County District Attorney's Office successfully filed and settled an enforcement action against the RP for failure to comply with UST system monitoring requirements. SMCEH LOP has referred the RP to the district attorney's office on 3 separate occasions (February 12, 2004, June 27, 2006, and August 7, 2007). The first two referrals were considered resolved when relatives of the RP stated they would become involved and rectify the situations. However, each time the relative would eventually stop assisting the RP.

A meeting was held with the RP and another relative in November 2009 at the District Attorney's office with SMCEH LOP, SMCEH CUPA, and Menlo Park Fire Department representatives. The District Attorney requested that the RP have contractors and consultants hired within 3 months and the outstanding work be completed, or for some issues at least initiated, in another 3 months. The RP failed to comply with the first deadline, again citing financial issues. As mentioned previously, the RP was accepted into the UST Cleanup Fund but was also investigated for failure to pay previous contractors for work performed.

**8) Documentation of any disputes between the regulatory agency and the RP;**

- 1/8/02 - Notice of Violation (NOV) issued to Rainer by SMCEH LOP – Failure to implement approved 1/19/01 corrective action work plan.
- 8/12/02 2<sup>nd</sup> NOV issued to Rainer by SMCEH LOP – Failure to submit report of implemented 1/19/01 corrective action work plan.
- 2/12/04 SMCEH LOP referral to District Attorney – Refers case to DA for consideration of enforcement action for RP's failure to comply with numerous directives, most recent of which was failure to implement 12/6/02 corrective action work plan.

- 3/15/06 Warning letter issued to Rainer by SMCEH LOP – Requirements in October 11, 2005 regulatory directive letter have not been complied with and the 2<sup>nd</sup> half 2005 groundwater monitoring event was not performed.
- 6/27/06 SMCEH LOP 2<sup>nd</sup> referral to District Attorney – Refers case to DA for failure to: 1) submit a work plan to investigate the apparent newer release around dispenser island, 2) the residential wells had not been offered to be sampled, and 3) non-compliance with Geotracker requirements, all required in October 11, 2005 regulatory directive letter and failure to conduct 2<sup>nd</sup> half 2005 groundwater monitoring event.
- 11/14/06 Warning letter issued to Rainer by SMCEH LOP – Requirements in October 11, 2005 regulatory directive letter still have not been complied with and the 2<sup>nd</sup> half 2005 and 1<sup>st</sup> and 2<sup>nd</sup> quarters 2006 groundwater monitoring events were not performed.
- 8/7/07 SMCEH LOP and CUPA 3<sup>rd</sup> referral to District Attorney – Refers case to DA for 1) failure to submit a work plan to investigate the apparent newer release around dispenser island, 2) the residential wells had not been offered to be sampled as required, and 3) non-compliance with Geotracker requirements, all required in October 11, 2005 regulatory directive letter and failure to conduct 2<sup>nd</sup> half 2005, 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> quarters 2006, and 1<sup>st</sup> and 2<sup>nd</sup> quarters 2007 groundwater monitoring events. SMCEH CUPA also referred the RP for non-compliance with UST requirements in the Health and Safety code.

Various other letters from SMCEH LOP to RP commenting on inadequate work plans and reports, non-compliance with Geotracker requirements, and missing several deadlines are all detailed in Geotracker under the Activities Report.

**9) Any actions which have been previously taken to cleanup or abate the effects of the unauthorized release:**

The RP has not taken any actions to cleanup or abate the effects of the unauthorized releases. The RP has had a history of non-compliance regarding UST system regulations with SMCEH CUPA. Various UST system upgrades have occurred as a result of SMCEH CUPA violations. The RP was investigating the 1999 release. However, the RP has not completed this action and has failed to begin to respond to the apparent newer, 2004 release.

**10) A description of the proposed cleanup or abatement is given below.**

The initial goal of the proposed action is to remove the historic and apparent newer source from the site, investigate the apparent newer release, using existing monitoring well network to establish current conditions from both the original and apparent newer release, and offer to sample the residential wells to evaluate potential impact to these sensitive receptors.

The proposed action is presented below:

- Remove existing, out-of-compliance UST system and collect CUPA compliance samples (soil and groundwater)
- Investigate nature and extent, and potentially perform interim remedial action, on apparent newer (2004) release
- Conduct limited hydrogeologic investigation using existing monitoring wells to evaluate groundwater flow direction, magnitude, and extent of existing contamination, to aid site conceptual model development for original (1999) and apparent newer (2004) releases
- Offer to sample known residential wells for potential impacts due to releases from site
- Decommission monitoring wells when appropriate

**11) The amount of annual funding requested and an estimated total required funding for each nominated site; and**

Funding of \$150,000 is requested. This funding is estimated to be used as follows, for the phases identified in item 10, above:

A) UST removal and compliance sampling:	\$50,000
B) Apparent newer release investigation and IRA	\$40,000
C) Limited Hydrogeologic Investigation	\$30,000
D) Sample residential wells	\$15,000
E) Decommission monitoring wells	\$15,000

Due to contracting issues (6 months minimum), it is likely this amount will be requested for use over a 2 fiscal year period.

**12) A description of the results if funding should be denied.**

The RP has not complied with SMCEH LOP directives for corrective actions due to a claimed limitation of necessary resources to fund this work, even though the RP has been accepted by and has previously used UST Cleanup Fund monies. The RP has a history of non-compliance with SMCEH directives for UST system (CUPA) and for corrective actions for soil and groundwater contamination (LOP). There are no other potential RPs. The continued delay in assessment of the MTBE impacts may result in impacts, or greater impacts, to residential wells. In addition, an apparent newer (2004) release may have caused a newer plume of contamination that may be migrating off-site towards residential wells.

Failure to have the current UST system removed, and the apparent newer release investigated and potentially addressed through interim remedial action, may allow

2010 EAR Account Nomination  
San Mateo County Environmental Health  
Rainer Service Station, 1905 East Bayshore Road, East Palo Alto, CA

the contamination plume to continue to be supplied new contamination. At worst, a potential explosion hazard exists with the current out-of-compliance UST system.



# California Regional Water Quality Control Board

## San Francisco Bay Region



Linda S. Adams  
Secretary for  
Environmental Protection

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Arnold Schwarzenegger  
Governor

### EAR Account Application (Abandoned & Recalcitrant Funding) for All Star Service, Inc. 1791 Pine Street Concord, California

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#### SITE SPECIFIC INFORMATION

March 17, 2010

**1) Site name and address:**

All Star Service, Inc., aka All Star, Inc.(UST operator)  
Attn: Mr. Kelly Engineer  
1791 Pine Street, Concord, CA 94520  
SFBRWQCB Case No. 07-0769  
GeoTracker No. T0601300715

**2) Name and address of all identified potential responsible parties (RPs):**

Mr. Kelly Engineer, and All Star Service, Inc. (UST operator)  
1791 Pine Street, Concord, CA 94520

Ms. Perrin Engineer (property owner)  
c/o Mr. Paul Rosenstein  
55 Santa Clara, Suite 250, Oakland, CA 94610-1375  
and 362 Riviera Drive, Union City, CA 94587

**3) A copy of the final corrective action order or cleanup and abatement order for each site:**

See attached:

- a) Corrective action requirement pursuant to California Water Code Section 13267, dated January 4, 2002 (approval of work plan and report requirement),
- b) Order No. R2-2002-0055, dated April 17, 2002, for failure to submit a work plan for soil and groundwater investigation (ACL for \$36,800),
- c) Order No. R2-2002-0056, dated April 17, 2002, for failure to submit a work plan for an additional soil and groundwater investigation (ACL for \$16,350),
- d) Notice of Violation – Deficient Technical Report, dated May 3, 2002,
- e) Requirement for Electronic Submittal of Information, dated January 13, 2009.

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- 4) **The name and address of the oversight agency (the agency requesting the direct site funding and who will oversee cleanup of the site), including the regulatory contact person's name, address, telephone number, and e-mail address;**

Regional Water Quality Control Board San Francisco Bay Region  
1515 Clay Street, Suite 1400, Oakland, California 94612

Barbara Sieminski, P.G., Caseworker; (510) 622-2423; [bsieminski@waterboards.ca.gov](mailto:bsieminski@waterboards.ca.gov)  
Chuck Headlee, P.G., Program Manager; (510) 622-2433; [theadlee@waterboards.ca.gov](mailto:theadlee@waterboards.ca.gov)

- 5) **A description of the unauthorized release, petroleum products released, water body affected or threatened, water quality, and the threat to human health, safety and the environment:**

The site pollution was discovered in 1998, during tank replacement activities. Soil samples collected from the tank pit contained up to 810 ppm of TPHg, 8 ppm of benzene, and 190 ppm of MtBE. The initial subsurface investigation, which was conducted in May 2001 and included 7 soil borings, confirmed that significant petroleum hydrocarbon contamination was present in soil (up to 1500 ppm of TPHg, 20 ppm of benzene, and 19 ppm of MtBE), and groundwater (up to 340,000 ppb of TPHg, 63,000 ppb of benzene, and 250,000 ppb of MtBE) beneath the site. Three on-site groundwater monitoring wells were installed in December 2001. The wells were monitored and sampled on quarterly bases between January 2002 and March 2004. Free product was observed in well MW-2 in September 2003. Free product removal was conducted using PetroTrap between October 15 and December 12, 2003, and resulted in removal of about 1 gallon of product. In March 2004 (the latest available groundwater monitoring data) hydrocarbon concentrations in well MW-2 were still high (150,000 ppb of TPHg, 9,100 ppb of benzene, 37,000 ppb of MtBE) indicating the presence of free product. No environmental work has been conducted at the site since 2004.

The available site data indicate that the site poses a potential threat to human health and the environment. Free product appears to be present beneath the site. The dissolved hydrocarbon plume continues to migrate off-site, and the plume extent has not been determined. Pine Creek is present immediately south of the site. The presence of other sensitive receptors is unknown because the sensitive receptor survey has not been conducted for the site. Potential risks to human health and environment have not been determined, however based on available data these risks may be significant. The risks may result from hydrocarbon vapor intrusion into buildings within the plume, contamination of domestic wells potentially present in the site vicinity, contaminant leaching to deeper groundwater bearing zones, contamination of nearby surface waters including Pine Creek, health and safety risks to construction workers from direct exposure to high hydrocarbon concentrations and free product present in shallow soil and groundwater.

- 6) **Documentation of why recalcitrant or abandoned funds are being requested for the site:**

Free product and high petroleum hydrocarbon concentrations are present in soil and groundwater beneath the site. The site poses a potential threat to human health and the environment. To date, the site pollution has not been fully delineated, and potential risks to human health and the

environment have not been evaluated. The RPs stopped environmental work at the site in 2004 without the Water Board consent.

The RPs have a long-standing pattern of non-compliance with respect to the Water Board's efforts to require cleanup of soil and groundwater contamination at the site. The RPs have not complied with the Water Board directives for site investigation. The RPs failed to submit required information and technical reports on timely bases, or did not respond to the Board requirements at all. Please see Item 8, below, for details.

**7) A description of why the RP can not or will not clean up the contamination or abate its effects:**

The RPs have a long-standing pattern of non-compliance with respect to the Water Board's efforts to require investigation and cleanup of soil and groundwater pollution at the site. The RPs have not paid the imposed ACLs, or settled penalties. The RPs have claimed an inability to pay.

**8) Documentation of any disputes between the regulatory agency and the RP:**

Contamination was discovered at the site in 1998, during UST replacement activities. In February 1999, the Contra Costa County Health Services Department requested a work plan for remedial investigation at the site, but no work plan was submitted and efforts to require cleanup then passed to the Water Board.

In February 2000, The Water Board requested a work plan for remedial investigation pursuant to Water Code section 13267. The work plan was finally submitted on March 16, 2001, nearly a year late, and only after numerous efforts by the Water board staff to obtain it. That late technical report was the subject of Water Board's ACL Order No. 01-034, adopted on March 21, 2001, setting an ACL of \$36,800 for Mr. Kelly Engineer/All Star Gas, Inc. The order was set aside because All Star Gas had been changed to All Star Service, Inc., and reinstated on April 17, 2002, with a new number R2-2002-0055.

The remedial investigation performed pursuant to the March 16, 2001, work plan confirmed that a significant groundwater contamination is present beneath the site, but did not define the extent of the contamination. Therefore, on June 27, 2001, the Water Board issued a second request pursuant to Water Code section 13267. This request was for a work plan to complete the remedial investigation. The work plan (dated November 28, 2001) was submitted 93 days late, only after various efforts by the Water Board staff to obtain it. This late work plan was the subject of the second Water Board order, ACL Order No. R2-2002-0056, adopted on April 17, 2002, setting an ACL of \$16,350 for Mrs. Perrin Engineer and All Star Service, Inc. (Kelly Engineer is the sole corporate officer of All Star Service, Inc., and the sole site operator).

Both orders were petitioned to the State Board. Both petitions were denied on December 19, 2002. RPs did not pay the penalty. The Attorney General's office recorded a judgment on the Water Board behalf (\$53,000 in fine plus interest for a total of \$92,000).

On January 4, 2002, the Water Board conditionally approved the November 28, 2001, work plan for additional site investigation, and required that the RPs submit to the Water Board no later than February 5, 2002, a technical report of the investigation findings and a completed Site Information Summary Form (SISF).

The RPs failed to fully comply with the January 4, 2002 requirements. The report describing findings of the additional investigation ("Well Installation and Initial Groundwater Monitoring Report" dated March 7, 2002) was submitted 29 days late. Although the report provided information pertaining to installation of monitoring wells, the report was incomplete as it did not provide data interpretation such as isoconcentration maps for groundwater pollutants, and did not contain information about additional work recommended to characterize the off-site pollution. The RPs did not submit the required completed SISF, which should include the results of a sensitive receptor survey. Therefore, on May 3, 2002, the Water Board issued the Notice of Violation – Deficient Technical Report for failure to submit an adequate technical report. The RPs did not submit the revised report.

In 2004, the RPs ceased the quarterly groundwater monitoring and sampling at the site without the Water Board consent.

In 2008, RPs made a settlement offer for payment. The parties settled a total amount of \$46,000 to be paid in quarterly installments. To date the RPs have paid \$13,000 (four quarterly payments). The RPs have missed paying the last five quarterly payments and have been unresponsive to the Attorney General's office efforts to continue paying the settlement agreement.

On January 13, 2009, the Water Board issued the letter Requirement for Electronic Submittal of Information to the RPs reminding them that they are in violation of the reporting requirements for the site, and that they need to "claim" the site in GeoTracker and authorize their consultant to submit compliance data. To date, the RPs have not complied with the Water Board requirement, they have not claimed the site, and have not submitted the compliance data to GeoTracker.

**9) Any actions which have been previously taken to clean up or abate the effects of the unauthorized release:**

The leaking tanks were replaced in 1998. The initial environmental investigation including drilling seven soil borings and collecting soil and grab groundwater samples was conducted at the site in May 2001. The results of the investigation confirmed that significant petroleum hydrocarbon contamination was present beneath the site. Three on-site groundwater monitoring wells were installed at the site in December 2001. The wells were monitored and sampled on quarterly bases between January 2002 and March 2004. Free product was observed in well MW-2 in September 2003. Free product removal was conducted using PetroTrap between October 15 and December 12, 2003, and resulted in removal of about 1 gallon of product. No other cleanup action has been performed at the site. No environmental work has been conducted at the site since 2004.

**10) A description of the proposed cleanup or abatement:**

The proposed cleanup action is presented below. The initial goal is to complete evaluation of the contamination extent, and to determine potential risks to human health and the environment related to the site pollution. A corrective action plan will be proposed to protect human health and the environment, based on the evaluation results.

- Develop a Site Conceptual Model (SCM) from existing information, and define data gaps for evaluation of the pollution lateral and vertical extent, and related human health and environmental risks. This would include a sensitive receptor survey to identify water supply wells and surface waters within ½ mile of the site, and sensitive land uses within 500 feet of the site.
- Perform a preferential pathway study that details the potential migration pathways, and potential conduits for horizontal and vertical contaminant migration (underground utilities, wells) that may be present in the immediate vicinity of the site.
- Perform soil and groundwater investigation to adequately define the lateral and vertical extent of soil and groundwater contamination.
- Install off-site wells to monitor plume migration. Perform monitoring and sampling of all site wells, initially on a quarterly basis, and on the less frequent schedule when sufficient data is collected, for confirmation of groundwater migration patterns and hydrocarbon concentration trends.
- Assess potential threats from subsurface vapor intrusion to indoor air, by sampling soil gas for constituents of concern or surrogates (such as oxygen content).
- Perform a risk assessment or screening level evaluation for the site.
- Prepare a CAP for remediation activities at the site based on the results of the additional site investigation and risk assessment.
- Implement the proposed CAP.
- Prepare case closure materials once low-threat closure criteria are met.
- Properly destroy all monitoring wells prior to case closure.

**11) The amount of annual funding requested and an estimated total required funding for each nominated site:**

Annual funding of \$200,000 is requested. Estimated total required funding is \$500,000 but this estimate will need to be refined after completion of the first six tasks listed above.

**12) Description of the results if funding should be denied.**

The plume will continue to migrate posing unknown potential human health and environmental risks. Potential significant impacts include hydrocarbon vapor intrusion into buildings within the plume, contamination of domestic wells potentially present in the site vicinity, contaminant leaching to deeper groundwater zones, contamination of nearby surface waters including Pine Creek, health and safety risks to construction workers from direct exposure to high hydrocarbon concentrations or free product in shallow soil and groundwater.

Based on the RPs history of non-compliance with the Water Board's requirements it is unlikely that the RPs will complete the required investigation and cleanup of the site pollution. There are no other potential RPs. The continued delay in assessment and cleanup of the site may result in a larger area becoming contaminated, and more significant impacts to human health and the environment.