

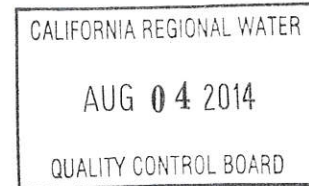


Reply to:
Horace W. Green
hgreen@bpbsllp.com

August 4, 2014

BY HAND DELIVERY

Bruce H. Wolfe, Executive Director
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612



Re: Tentative Site Cleanup Order
1705 Contra Costa Blvd.
Pleasant Hill, CA
Our File No.: 70538.004

Dear Mr. Wolfe:

This office represents MB Enterprises, Inc. with respect to the Board's Tentative Site Cleanup Order regarding the address set forth above. Pursuant to your letter of July 2, 2014, the purpose of this letter is to comment on the Tentative Order and the proposed actions.

MB Enterprises purchased the automotive fueling facility on the site in June 2003 (close of escrow). As noted, the site was an open environmental case from 1986 until 2005. In January 2005, the Board issued a site closure letter and approved a Site Management Plan.

Since that date, MB Enterprises' operation of the automotive fueling facility has not involved the use or emission of tetrachloroethylene (PCE) or trichloroethylene (TCE). To the extent that the operation of the facility has included the use of any other potentially hazardous materials, all such materials have been safely handled and disposed of. The vendors who have handled such materials include Evergreen Oil, Inc.; Evergreen Environmental Services; Filter Recycling Services; Blue Jay Environmental Services, Inc.; and Environmental Logistics, Inc.

The Staff Report which accompanies the Tentative Order asserts that the soil samples reveal release of chlorinated volatile organic compounds (CVOCs) from former waste oil underground storage tanks which were removed prior to MB Enterprises' operation of the automotive fueling facility. The Staff Report also asserts that soil samples indicate a possible release of CVOCs by a dry cleaner which operated on the site many years before MB Enterprises took possession of the automotive fueling facility. However, the Staff Report does not establish any relationship between the CVOCs contained in the soil samples and any activity undertaken by MB Enterprises during its ownership and operation of the fueling facility.

The Tentative Order names MB Enterprises as a Discharger based on the rationale that “it is the current owner of the property on which there is an ongoing discharge of pollutants, has knowledge of the discharge, and had the legal ability to control the discharge.”

MB Enterprises objects to being identified as a “discharger” on the grounds that “it is the current owner of the property on which there is an ongoing discharge of pollutants.” MB Enterprises denies that there is “an ongoing discharge of pollutants” on the property. The Staff Report does not identify any ongoing discharge of pollutants; to the contrary, the Report identifies only historical discharges by a former underground storage tank and by the operation of a former dry cleaner. As such, the Staff Report does not support this tentative finding. MB Enterprises calls the Board’s attention to an August 12, 2012 letter to Mr. Kevin Brown from Conestoga-Rovers & Associates (CRA). At page 10 of this letter, CRA stated “CRA concurs with EKI that a source for CVOCs may remain in the vicinity, but the source is . . . not service station operations.”

MB Enterprises further objects to being identified as a “discharger” on the grounds that MB Enterprises “has knowledge of the discharge.” MB Enterprises was unaware, at the time it purchased the facility, of the contamination caused by the former underground storage tank and/or the dry cleaners. Neither of these structures was on site in 2003 when MB Enterprises purchased the facility.

MB Enterprises requests that the Board delete these statements from the Tentative Order before the Order becomes final. We will attend the September 10, 2014 hearing, and will be available at that time to respond to any questions you may have.

Very truly yours,

**BUCHMAN PROVINE
BROTHERS SMITH LLP**



Horace W. Green

HWG:dhm