

California Department of Transportation JAN 04 2024

DISTRICT 1

P.O. BOX 3700 | EUREKA, CA 95502-3700
(707) 445-6600 | FAX (707) 441-6314 TTY 711www.dot.ca.gov

Planning & Building Services



January 3, 2024

1-MEN-101-33.863

U 2021-0016

APN: 162-100-58

Mr. Liam Crowley,
Planning & Building Department
County of Mendocino
860 North Bush Street
Ukiah, CA 95482

Dear Mr. Crowley:

Caltrans would like to address comments raised at the December 7, 2023 Mendocino County Planning Commission hearing for the Faizan Corporation and 898 Main Street LLC Use Permit (U_2021-0016) and Variance (V_2021-0005) to establish a fueling station with a 65-foot tall business identification sign. Both the County staff report and the applicant's agents introduced incorrect interpretations of Caltrans' comments when addressing the planning commissioners at the permit hearing. This letter is an attempt to correct factual errors that may exist in the public record.

The applicant was issued a minor use permit by the County of Mendocino in 2016 for a fueling station containing six gas pumps with twelve fueling positions. The applicant allowed the permit to expire without constructing the permitted entitlements. On December 20, 2021, the Mendocino Department of Planning & Building Services sent out referrals for an expanded fueling stations, with ten pumps/ twenty fueling positions. The 2016 permit has no bearing on the 2021 application as the review of the application is considered *de novo*, or that it must be reviewed anew.

On February 24, 2022, Caltrans issued a news release which announced the Department's adoption of the "Safe Systems Approach" to eliminate deaths and serious injuries on California roadways. The Safe System Approach commits Caltrans to eliminate traffic fatalities and serious injuries on State highways by the year 2050. Please review the 2022 news release for additional information about the Caltrans policy:

<<https://dot.ca.gov/news-release-2022-009>>.

ATTACHMENT G

Mr. Crowley
1/3/2024
Page 2

The Transportation Impact Study (TIS) for the 2021 minor use permit application provided data that indicated that the vast majority of the project trips would use US Route 101 to access the site. Caltrans District staff applied the American Association of State Highway and Transportation Officials (AASHTO) Highway Safety Manual, Part C: Predictive Method network screening tool to the numbers provided in the TIS. The Highway Safety Manual predicted that the number of collisions would double, from two to four collisions per year, with the proposed project. Due to the prevailing freeway speeds, any collision at the US 101/North State St intersection has the potential to be severe, if not fatal.

The "nexus" for requesting the median closure is established with the predicted increase in collisions as a result of the project-induced increase in the number of vehicles turning on and off of US 101. The projected increase in collisions is inconsistent with Caltrans' adopted Safe System Approach and Vision Zero goals.

Under CEQA, the project is inconsistent with an adopted policy or program regulating transportation and circulation and can reasonably be foreseen to result in traffic safety impacts. The project was circulated for public comment as a Mitigated Negative Declaration on November 2, 2023, which proposed mitigation for significant transportation impacts. To approve the project with unmitigated impacts, the County would need to prepare and circulate an Environmental Impact Report in order to make a finding of overriding considerations. See California Code of Regulations § 15064(a-f) and § 15075(b)(4) as well as California Public Resources Code § 21064.5 (2) and § 21080 (c)(2).

With respect to the applicant's attorney who also made statements about "proportionality"...the letter stated that "this isn't Costco," with reference to the size or impact of the project. The comparison may have been made as an appeal to common sense, however, we note that the proposed gas station in Redwood Valley will have more fuel pumps than the Costco fueling station. Costco in Ukiah only has eight pumps/sixteen fueling positions. We make this point in order to ensure that the seemingly flippant remark does not diminish the significance of public safety.

The County staff report and the letter from the applicant's attorney incorrectly state that Caltrans had plans to close the center median opening at North State Street and Uva Drive at US 101 as part of an existing project. A copy of the Caltrans project initiation proposal document (01-OK310_ProjectInitiationProposal_1605.pdf) for the Caltrans cable median barrier project is enclosed to show that the project limits ended south of the intersection at the project inception in 2019, two years prior to receiving the revised application for a gas station on December 20, 2021. The cable median barrier project was initiated for the exclusive purpose of reducing multilane cross-median collisions within the highway segment.

ATTACHMENT G

Mr. Crowley
1/3/2024
Page 3

Any work within the State right of way requires an encroachment permit from Caltrans. Caltrans encroachment permits are ministerial, meaning that the approval is not discretionary. Ministerial permits are granted without prejudice, based upon compliance with established standards. Ministerial permits do not require further CEQA review and therefore should not be considered a "double jeopardy" as may have been implied during the discussions at the planning commission hearing.

Please contact me with questions or for further assistance with the comments provided at (707) 684-6879 or email: <jesse.robertson@dot.ca.gov>.

Sincerely,

Jesse G. Robertson

JESSE ROBERTSON
Transportation Planning
Caltrans District 1

Enclosure: 01-OK310_ProjectInitiationProposal_1605.pdf

ATTACHMENT G

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION

PROJECT INITIATION PROPOSAL (PIP)

1605

DIVISION OF TRANSPORTATION PLANNING
Rev 12/22/2018

DATE
12/13/2019

DISTRIBUTION %

URBAN ☐ RURAL ☐

SECTION 1: PROJECT INFORMATION

EA	SHOPP TOOL ID	PPNO	EFIS ID
01-OK310	22000	4751	0120000062

ASSETS	DIST	COUNTY	ROUTE	PREFIX	PM BACK	SUFFIX	PREFIX	PM FORWARD	SUFFIX
	01	Mendocino	101		30.8		R	33.8	
ASSETS	DIST	COUNTY	ROUTE	PREFIX	PM BACK	SUFFIX	PREFIX	PM FORWARD	SUFFIX
	01								
ASSETS	DIST	COUNTY	ROUTE	PREFIX	PM BACK	SUFFIX	PREFIX	PM FORWARD	SUFFIX
	01								
ASSETS	DIST	COUNTY	ROUTE	PREFIX	PM BACK	SUFFIX	PREFIX	PM FORWARD	SUFFIX
	01								

NOTE A: FOR ADDITIONAL POSTMILES, USE PAGE 2 OF FORM, DO NOT USE "VARIOUS"

PROJECT NICKNAME
Calpella Median Barrier

LOCATION DESCRIPTION
In Mendocino County, Near Calpella from the junction of Route 20 to 0.1 mile south of Uva Drive.

WORK DESCRIPTION
Place High Tension Cable Median Barrier between Postmile 30.86 and Postmile R33.71, and pave the median between Postmile R31.14 and Postmile R33.74. Work includes 15,100 LF of Four-Strand Cable Median Barrier, 4300 CY of Roadway Excavation, 2720 CY of Class 2 Aggregate Base, 3060 tons of Hot Mix Asphalt, and 660 SQYD of Vegetation Control (Minor Concrete).

Assignments

PROJECT MANAGER (PM)	DES-TECH. LIAISON ENGINEER(TLE)
	John Fujimoto
DIST. ASSIGN.	PROJECT ENGINEER/DESIGN MANAGER
PLANNING	JSzabo/THodgson

SECTION 2: RESOURCE ESTIMATE FOR K-PHASE

FY 19/20	DISTRICT(PYs)	DES(PYs)	TOTAL (PYs)
	0.9	0.05	0.95
FY 20/21	DISTRICT(PYs)	DES(PYs)	TOTAL (PYs)
	0.1	0	0.1
FY	DISTRICT(PYs)	DES(PYs)	TOTAL (PYs)
GRAND TOTAL	DISTRICT(PYs)	DES(PYs)	TOTAL (PYs)
	1	0.05	1.05

NOTE B: FOR ADDITIONAL K-PHASE RESOURCE BREAKDOWN, USE PAGE 2 OF FORM

SECTION 3: SIGNATURE BLOCK

DISTRICT ASSET MANAGER	DATE
	1/6/2020
SHOPP PID Coordinator	DATE
	1/6/2020
Deputy District Director Maintenance & Operations	DATE
	1/6/2020

Save As Print Form Reset Form

SECTION 4: PROJECT INITIATION DOCUMENT (PID)

SHOPP MAJOR ☐ Long Lead

Non-SHOPP ☐

ACTIVITY CATEGORY Safety-Monitor

Caltrans ☐ Oversight ☐

10 YEAR SHOPP PLAN 2019

Funding ☐

PROPOSED SHOPP CYCLE 2020

PID CYCLE 2022

PID TYPE PIR LEVEL 2

☐ A&E/ CONSULTANTS

NOTE C: FOR ADD'L SATELLITES, USE PAGE 2 OF FORM

Assets	Program	Performance	Quantities	Unit
Anchor (A)	SHOPP	201.010, .015 Collision Severity/Safety Improvement	30	INJ
Satellite (1)				
Satellite (2)				
Satellite (3)				

SECTION 5: PRELIMINARY PROJECT SCHEDULE

M000 BEGIN PID

01/14/2020

M003 BEGIN FUNCT PID COMPONENTS

03/17/2020

M006 DRAFT FOR DIST CIRC & REVIEW

06/02/2020

M009 FINAL DRAFT FOR EXEC REVIEW

08/11/2020

M010 APPROV PID

09/01/2020

Accelerated PID ☒ SB 1 (3290) ☐

TARGET RTL FY 23/24

CTC MEETING SCHEDULE

10/29/2020

CLICK FOR CTC MTG SCHEDULES

SECTION 6: PRELIMINARY COST ESTIMATE (x\$1000)

NOTE THAT ALL COSTS ARE ESCALATED		CONST. CAP		R/W CAP	
CAPITAL COST		ROADWAY	STRUCTURE	R/W CAP	
\$4,380		\$4,380	\$0	\$10	
SUPPORT COST		PA&ED	PS&E	CONST.	R/W
		\$790	\$820	\$795	\$5
TOTAL PROJ COST		R/W CAP	CONST. CAP	SUPPORT	TOT. COST
		\$10	\$4,380	\$2,410	\$7,133

Environmental Assumption Right of Way Assumption

CEQA CE NEPA CE RR ADA UTIL ACQUISITION

RISKS & ASSUMPTIONS
May be NPDES issues with median paving

SECTION 7: ATTACHMENTS

☒ TPSIS ☒ SHOPP PERF. MEASURES REPORT (TYP)

☐ EXEC COOP ☒ CONCEPTUAL COST ESTIMATE

☒ PHOTOS ☐

☒ LAYOUT ☒ VICINITY MAP

☒ TYP X-SECT.

OTHER:

James Feenan

JAN 04 2024

From: Peter McNamee <pmcnamee@sbcglobal.net> **Planning & Building Services**
Sent: Wednesday, January 3, 2024 4:26 PM
To: pbscommissions
Subject: Request Minor Permit CASE#: U_2021-0016 & V_2021-0005 (Continued from 12/7/23)

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Commissioners,

As a concerned taxpayer and resident of Mendocino County, I wish to go on record urging you to deny the requested permit in regard to CASE#: U_2021-0016 & V_2021-0005 (Continued from 12/7/23). The Planning Commission is empowered by the county code to protect the public interest, safe guard the public against hazardous development and promote economically beneficial business development and commerce within the county thru the exercise of its permitting and land use powers.

The applicant in CASE#: U_2021-0016 & V_2021-0005 (Continued from 12/7/23) requests approval to develop a gas station off Hwy 101 near the entrance to Redwood Valley. The evidence presented to date demonstrates that this application should be denied because it would add unnecessary noise and environmental pollution that undermines the public's interest, development and operation of such a gas station would endanger the public safety by creating unnecessary and dangerous traffic conditions, and our county's economy has no need for an additional gas station at this time.

Thank you for allowing me to provide testimony on this matter.

Peter McNamee
Fort Bragg, California

[Sent from Yahoo Mail for iPad](#)

ATTACHMENT G

Mendocino County

To: Mendocino County Planning Commission

JAN 03 2024

Planning & Building Services

Concerns Regarding: U_2021-0016/V_2021-0005 (Faizan Corporation)

As an adjoining property owner, I stated my concerns regarding this development at the December 7, 2023 meeting. I also stated that I have a 40 ft easement that runs through the middle of the proposed project. During the staff presentation, staff noted the request for set back pumps is due to the 40 ft easement. This easement was in place before the current ownership of the Faizan Corporation, and Faizan Corporation stated they had sought out alternative options for purchasing the easement from the current owner but have yet to be successful. Previous property owners deeded the easement on November 16, 1976, when the entrance was changed for safety concerns of the prior access from what is currently North State St. (Formerly Hwy101). I am still waiting for communication from the Faizain Corporation to address this issue and how to prevent somebody from blocking my easement, thus preventing my family and myself from entering our family home and ranch. The easement must always be clear to maintain ranching operations and home deliveries. Additionally, emergency vehicles will need access to my property in the case of an emergency. The easement is a 'non-buildable easement ". Putting gas pumps to the west of my easement and a convenience store to the east is passively building a gas station/ convenience store over my family's easement.

I urge the Mendocino County Planning Commission to deny the Minor Use Permit. Approving the permit would constitute a nuisance or be detrimental to my family's health, safety, peace, morals, comfort, or general welfare of my family since we reside and work through the neighborhood and would be detrimental or harmful to my family property and improvements in the neighborhood. The Planning Commission also found that the projected increased traffic and safety impacts of the proposed Project would require closure of the US 101 median at the intersection of North State Street (CR 104) and Uva Drive (CR 239). Increased traffic due to the Project would increase the number of cars and trucks crossing US 101 at this intersection, increasing the likelihood of additional collisions, which, given the traffic speeds on US 101, would likely be severe if not fatal. Closure of the intersection is necessary mitigation to reduce potentially significant transportation safety impacts caused by the project to less than significant levels. This closure would eliminate the current ability of motorists to turn from either County road onto US 101 or turn from US 101 onto either County road. In addition, motorists would be unable to cross US 101 from one county road to another. If the median were to be closed, motorists traveling along US 101 would be required to use the West Road (CR 237) interchange to access North State Street and in turn the project site and neighboring properties. If the Project were to be approved, the required transportation mitigation would be a detriment to the general welfare of my family and my neighbors residing or working in the area because it would limit circulation options and place an undue burden on the existing ranchers and homeowners.

Respectfully,

Thomas (Tom) Rawles
9581 North State St

ATTACHMENT G

Redwood Valley CA, 95479
707-391-7577

James Feenan

Mendocino County

From: Dolly Riley <dollyriley@gmail.com>
Sent: Saturday, December 9, 2023 6:36 PM
To: pbscommissions
Subject: Findings Re: Faizon Corp
Attachments: Water Board.pdf

DEC 11 2023

Planning & Building Services

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mendocino County Planning Commission, As you prepare findings following the December 7, 2023, hearing of request for permit for Faizan Corporation to install 10 gas pumps in Redwood Valley, please note Attorney Momsen for the plaintiff testified that Faizan Corporation's violations were "paperwork" only. Below read the February 2019 report of gasoline groundwater pollution by Faizon Corporation at a Gobbi Street, Ukiah, gas station. Thank you, Dolly Riley

Sent from my iPhone

ATTACHMENT G

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD NORTH COAST REGION

CLEANUP AND ABATEMENT ORDER NO. R1-2019-0014

FOR

MAHMOOD ALAM AND FARAH ALAM

390 E. GOBBI STREET
UKIAH, CA
ASSESSOR PARCEL NUMBER 002-312-11
MENDOCINO COUNTY

CASE NUMBER 1TMC532

This Order is issued to Mahmood Alam and Farah Alam (hereafter referred to as the Dischargers) based on provisions of Water Code section 13304, which authorizes the North Coast Regional Water Quality Control Board (Regional Water Board) to issue a Cleanup and Abatement Order and Water Code section 13267 investigative order, which authorizes the Regional Water Board to require the preparation and submittal of technical and monitoring reports (Order). The purpose of order is to cleanup and abate the impacts and threats to water quality and human health necessitated by the discharge of waste to the subsurface.

The Executive Officer finds, with respect to the Dischargers' acts, or failure to act, the following:

1. **Site Conditions:** During an underground fuel storage tank (UST) excavation at 390 East Gobbi Street in Ukiah California (Site), gasoline and gasoline constituents were detected in groundwater at the Site. In addition, extracted groundwater was discharged into an open excavation on the Site. Furthermore, soil excavated during the UST removal activities was transported and stockpiled offsite. Nearby sensitive receptors include a municipal water supply well. The soil that was removed offsite was placed in an uncontrolled manner representing a threat to surface waters. The Dischargers caused or allowed a discharge, and threatened discharge, of wastes to receiving waters.
2. **Purpose of the Order:** This Order requires the Dischargers to clean up and abate the discharge of petroleum constituents in groundwater and soil and eliminate the threat of future discharges. Investigation and cleanup actions required under this Order shall be conducted to comply with the Porter-Cologne Water Quality Control Act (Wat. Code § 13000 *et seq.*), the *Water Quality Control Plan for the North Coast Region* (Basin Plan), State Water Resources Control Board (State Water Board) Resolution 92-49, *Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under Water Code Section 13304* (Resolution 92-49), and other applicable State and Regional Water Board plans, policies, and regulations.

ATTACHMENT G

Cleanup and Abatement Order
No. R1-2019-0014

- 2 -

3. **Property Description:** The discharge occurred at the property located at 390 East Gobbi Street in the City of Ukiah (Site). The property is further identified as Mendocino County Assessor Parcel Number (APN) 002-312-11. The Site is within 300 feet of Gibson Creek, a tributary to the Russian River. A municipal public water supply well is located approximately 500 feet from the Site.
4. **Responsible Parties:** The Dischargers, as the Site owners with the legal ability to control the activities on the Site that resulted in the discharge, are responsible parties for purposes of this Order. This Order finds that Mahmood Alam and Farah Alam are the responsible parties and are all jointly and severally liable.
 - a. Per records from the Mendocino County Assessor-Recorder's Office, Mahmood Alam and Farah Alam own the Property.
 - b. The Regional Board reserves the right to amend this Order to add additional responsible parties when/if those parties are identified.
5. **Factual Basis of Order:** The Dischargers' activities and/or the conditions at the Site, as detailed below, created and threaten to create a condition of pollution in groundwater and in waters of the state by unreasonably impacting water quality and beneficial uses.
 - a. On January 29, 2019, Mendocino County Environmental Health Division (MCEHD) staff forwarded analytical results for water samples collected on January 23, 2019 during a UST removal and replacement activities. The analytical results showed the presence of gasoline-range total petroleum hydrocarbons (TPH-g) at 620 micrograms per liter ($\mu\text{g/L}$), benzene at 8.9 $\mu\text{g/L}$, toluene at 36 $\mu\text{g/L}$, ethylbenzene at 10 $\mu\text{g/L}$, xylenes at 77 $\mu\text{g/L}$, and naphthalene at 1.6 $\mu\text{g/L}$.
 - b. On or before January 23, 2019, soil from the UST excavation at the Site was transported and deposited on the property located at 1460 Lovers Lane in Ukiah, California.¹
 - c. On or before January 26, 2019, an unknown quantity of impounded water extracted from the UST excavation at the Site discharged into the excavation.²
 - d. On or before January 29, 2019, City of Ukiah staff removed from service a public water supply well, located approximately 500 feet from the Site, due to reported unauthorized UST operations and discharges at the Site.³
 - e. On January 30, 2019, MCEHD staff informed the Regional Water Board that they believed that Mahmood Alam was loading soil at the 1460 Lovers Lane property on

¹ Based on communications between Regional Water Board staff and MCEHD staff, a January 25, 2019 telephone call from a concerned citizen to Regional Water Board staff, and communications between Regional Water Board staff and Edd Clark & Associates, Inc. staff.

² Based on communications between Regional Water Board staff and MCEHD staff, City of Ukiah Fire Department staff, and City of Ukiah Water & Sewer Department staff.

³ Based on January 29, 2019 communications between Regional Water Board staff, City of Ukiah Water & Sewer Department staff, and MCEHD staff.

ATTACHMENT G

Cleanup and Abatement Order
No. R1-2019-0014

- 3 -

to A to Z Construction trucks and transporting it to an unknown location. Regional Water Board staff called A to Z Construction and confirmed that the soil was being stockpiled at their yard located at 4300 North State Street in Ukiah.

6. **Beneficial Uses:** The Basin Plan designates beneficial uses, establishes water quality objectives, contains implementation programs for achieving objectives, and incorporates by reference the plans and policies adopted by the Regional Water Boards.
 - a. The beneficial uses of areal groundwater include Municipal and Domestic Supply (MUN), Agricultural Supply (AGR), Industrial Service Supply (IND), Industrial Process Supply (PRO), and Freshwater Replenishment (FRSH).
 - b. The Site is near Gibson Creek which is a tributary to the Russian River in the Ukiah Hydrologic Subarea. Existing and potential beneficial uses include Municipal and Domestic Supply (MUN), Agricultural Supply (AGR), Industrial Service Supply (IND), Industrial Process Supply (PRO), Groundwater Recharge (GWR), Freshwater Replenishment (FRSH), Navigation (NAV), Hydropower Generation (POW), Water Contact Recreation (REC1), Non-contact Water Recreation (REC2), Commercial and Sport Fishing (COMM), Warm water Habitat (WARM), Cold Freshwater Habitat (COLD), Wildlife Habitat (WILD), Rare Threatened or Endangered Species (RARE), Migration of Aquatic Organisms (MIGR), Spawning, reproduction, and/or Early Development (SPWN), and Aquaculture (AQUA). Beneficial uses of any specifically identified water body generally apply to all of its tributaries.
7. **State Water Board Resolutions 92-49:** State Water Board 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 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 that 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 and cleanup and abatement 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.
8. **Water Quality Objectives:** Water quality objectives in the Basin Plan are adopted to ensure protection of the beneficial uses of water. The most stringent water quality objectives for protection of all beneficial uses are selected as the protective water quality criteria. Alternative cleanup and abatement actions must evaluate the feasibility of, at a minimum: (1) cleanup to background levels; (2) cleanup to levels attainable through application of best practicable technology; and (3) cleanup to the level of water

ATTACHMENT G

Cleanup and Abatement Order
No. R1-2019-0014

- 4 -

quality objectives for protection of beneficial uses. A table of water quality objectives for petroleum constituents in groundwater is incorporated in this Order as Attachment 1.

9. **Legal Authority to Require Cleanup and Abatement:** 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 requirements 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 causes, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board clean up the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including, but not limited to, overseeing cleanup and abatement efforts....Upon failure of any 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.

- a. "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 the waters for beneficial uses or the facilities which serve these beneficial uses.
- b. "Nuisance" is defined by Water Code section 13050, subdivision (m) to mean anything which meets all of the following requirements:
 - i. Is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.
 - ii. Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.
 - iii. Occurs during, or as a result of, the treatment or disposal of wastes.

10. **Cleanup and Abatement Action Necessary:** Cleanup and abatement is necessary to ensure that the existing condition of pollution is cleaned up, that the threat of unauthorized discharges to waters of the state from the Property are prevented, background water quality, or the best water quality that can be attained is restored, and that any impacts to beneficial uses are mitigated. The current condition of pollution is a

ATTACHMENT G

Cleanup and Abatement Order
No. R1-2019-0014

- 5 -

priority violation and the issuance of a cleanup and abatement order pursuant to Water Code section 13304 is appropriate and consistent with the policies of the Regional Water Board.

11. **Technical Reports Required:** Water Code section 13267, subdivision (a) provides that the Regional 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) provides that the Regional Water Board, in conducting an investigation may require a discharger to furnish, under penalty of perjury, technical or monitoring program reports. The burden of preparing the reports required by this Order bear a direct relationship for the need for the reports and the benefits to be obtained from the reports. The technical reports required by this Order are necessary to assure compliance with this Order and to protect the waters of the state. The technical reports are further necessary to demonstrate that appropriate methods will be used to cleanup waste discharged to soil and groundwater and to ensure that cleanup complies with Basin Plan requirements. In accordance with Water Code section 13267(b), the findings in this Order provide the Discharger with a written explanation with regard to the need for investigation and reports and identifies the evidence that supports the requirement to implement clean up and abatement activities and submit the reports.
12. **Electronic Reporting Requirements:** Sampling data, reports, and plans shall be submitted to the Regional Water Board via the State Water Resources Control Board's Geographic Environmental Information Management System database (GeoTracker) as specified in Title 23, Division 3, Chapter 30, Article 2, Sections 3890-3895 of the California Code of Regulations.
13. **California Environmental Quality Act:** Issuance of this Order is being taken for the protection of the environment and to enforce the laws and regulations administered by the Regional Water Board and, as such, is exempt from provisions of the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.) in accordance with California Code of Regulations, title 14, sections 15061, subdivision (b)(3), 15306, 15307, 15308, and 15321. This Order generally requires the Dischargers to submit plans for approval prior to implementation of cleanup, abatement, and restoration activities at the Property. Mere submittal of plans is exempt from CEQA as submittal will not cause a direct or indirect physical change in the environment and/or is an activity that cannot possibly have a significant effect on the environment. CEQA review at this time would be premature and speculative, as there is simply not enough information concerning the Dischargers' proposed cleanup, abatement or restoration activities and possible associated environmental impacts. If the Regional Water Board determines that implementation of any plan required by this Order will have a significant effect on the environment that is not otherwise exempt from CEQA, the Regional Water Board will conduct the necessary and appropriate environmental review prior to implementation of the applicable plan. The Dischargers will bear the costs, including the Regional Water Board's costs, of determining whether implementation of any plan required by this Order will have a significant effect on the

ATTACHMENT G

Cleanup and Abatement Order
No. R1-2019-0014

- 6 -

environment and, if so, in preparing and handling any documents necessary for environmental review. If necessary, the Dischargers and a consultant acceptable to the Regional Water Board shall enter into a memorandum of understanding with the Regional Water Board regarding such costs prior to undertaking any environmental review.

REQUIRED ACTIONS

IT IS HEREBY ORDERED that, pursuant to Water Code sections 13267 and 13304, that the Dischargers shall clean up the wastes and abate the impacts to water quality in accordance with the scope and schedule set forth below and provide the following information. The Dischargers shall obtain all necessary permits for the activities required in this Order.

1. Conduct all work under the direction of a California professional civil engineer or professional geologist experienced in surface water, soil, and groundwater investigation and remediation. All workplans and reports submitted to the Executive Officer of the Regional Water Board shall be signed and stamped by a licensed professional.
2. Coordinate investigation and cleanup activities associated with soils, surface waters, and groundwater with Regional Water Board staff, Mendocino County Environmental Health staff, City of Ukiah staff, and other regulatory agencies involved in the cleanup.
3. **By February 12, 2019**, the Dischargers shall remove all the water from within the UST excavation, sample the water, and impound the extracted water in tanks pending laboratory characterization and documentation for authorized and permitted disposal. The water sample shall be analyzed for total petroleum hydrocarbons as gasoline, benzene, toluene, ethylbenzene, xylenes, fuel oxygenates, and the lead-scavenger compounds ethyl dibromide and 1,2-dichloroethane. The water within the UST excavation pit shall be allowed to recharge and a confirmation water sample shall be collected and analyzed for the above-referenced petroleum constituents. Pumping from the excavation shall be continued until sample analyses are non-detect (using the practical quantitation limits listed in Attachment 1) for the contaminants, or until at least 40,000 gallons have been removed. The Dischargers shall submit by **March 7, 2019** a report describing the removal activities and the analytical results for the extracted and impounded water.
4. Immediately implement best management practices for soil migration and storm water control to protect stockpiled soil from mobilization by rain infiltration, wind, and storm water, and submit photographic documentation demonstrating full implementation of these practices.
5. **By February 12, 2019**, submit a workplan and a schedule of implementation to characterize and dispose of the excavated soil. Implementation of the workplan shall

ATTACHMENT G

begin within seven days following the Executive Officer's concurrence with the workplan. The Dischargers shall implement the workplan per the approved schedule of implementation.

6. **By March 7, 2019**, the Dischargers shall submit a report of waste disposal activities documenting the removal and disposition of all waste materials from the Site, including soil and extracted groundwater. The report of waste disposal activities shall include copies of transport manifests and receipts by a permitted landfill for all disposed soils.
7. **By March 7, 2019**, the Dischargers shall submit a workplan for the Regional Water Board Executive Officer's approval that specifies actions to investigate soil and groundwater quality in the vicinity of the excavation at the Site. Within sixty days of Regional Water Board Executive Officer's approval of the workplan, the Dischargers shall complete implementation of the workplan and shall submit a report of findings for that work. If the results do not fully define the extent of groundwater and soil contamination, the report must contain recommendations and an implementation schedule for additional investigation. The Dischargers shall implement additional investigations as approved by the Executive Officer.
8. Within 60 days after the Regional Water Board Executive Officer concurs that the extent of groundwater and soil contamination is defined, the Dischargers shall submit a feasibility study for Executive Officer review and concurrence to identify and evaluate the effectiveness, feasibility, and relative costs of potential soil and groundwater cleanup alternatives for the remaining contamination. The feasibility study shall identify the recommended alternative(s). The Executive Officer may waive the requirement for a feasibility study dependent on the results of the soil and groundwater investigation and the results of any interim cleanup and abatement actions. Within 90 days after Regional Water Board Executive Officer concurrence with the feasibility study, the Dischargers shall submit a final remedial action plan. The final remedial action plan shall include soil, soil vapor, and groundwater cleanup goals acceptable to the Executive Officer. If the Property and affected properties cannot be cleaned up to levels considered safe for unrestricted use or if the final remedial action plan contains permanent engineering controls, land use restrictions shall be incorporated into the final remedial action plan. The final remedial action plan must contain a schedule for implementation. The Executive Officer may waive the requirement for a final remedial action plan dependent on the results of the soil and groundwater investigation and the results of any interim cleanup and abatement actions.
10. Within 90 days after Regional Water Board Executive Officer approval of the final remedial action plan, the Dischargers shall begin implementation of the final remedial action plan according to the approved schedule.
11. Within 180 days after implementation of final remedial action, the Dischargers shall submit a report that evaluates the performance of final remedial actions and provides recommendations and an implementation schedule for expanding and/or modifying the remediation system, or other measures, for the Executive Officer's review and approval.

ATTACHMENT G

Cleanup and Abatement Order
No. R1-2019-0014

- 8 -

The Dischargers shall implement and complete the approved system expansions and/or modifications, or other measures, per the approved schedule to abate and clean up the discharge of waste or threatened discharge of waste, restore water quality in groundwater, and protect the beneficial uses of surface and groundwater, human health and the environment.

12. The Dischargers shall complete any additional work deemed reasonably necessary by the Executive Officer to abate and clean up the discharge of waste or threatened discharge of waste, restore water quality in groundwater and surface water, and protect the beneficial uses of surface and groundwater, human health, and the environment.

GENERAL REQUIREMENTS AND NOTICES

1. **Duty to Use Qualified Professionals:** The Dischargers shall provide documentation that plans and reports required under this Order are prepared under the direction of appropriately qualified professionals. As required by the California Business and Professions Code sections 6735, 7835, and 7835.1, engineering and geologic evaluations and judgments shall be performed by or under the direction of registered professionals competent and proficient in the fields pertinent to the required activities. The Dischargers shall include a statement of qualification and registration numbers of the responsible lead professionals in all plans and reports required under this Order. The lead professional shall sign and affix their registration stamp to the report, plan, or document. The required activities must be implemented by the appropriately qualified/licensed professional as otherwise required by law.
2. **Signatory Requirements:** All technical reports submitted by the Dischargers shall include a cover letter signed by the Dischargers, or a duly authorized representative, certifying under penalty of law that the signer has examined and is familiar with the report and that to his/her knowledge, the report is true, complete, and accurate. The Dischargers shall also state in the cover letter whether he/she will implement the recommendations/proposals provided in the report and the schedule for implementation. 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."

3. **Notice of Onsite Work:** The Dischargers, or a duly authorized agent, shall notify Regional Water Board staff at least 48 hours prior to any onsite work, testing, or sampling that pertains to environmental remediation and investigation and is not

ATTACHMENT G

Cleanup and Abatement Order
No. R1-2019-0014

- 9 -

routine monitoring, maintenance, or inspection. The Dischargers may contact the Regional Water Board using the general phone line at (707) 576-2220.

4. **Notice of Change in Ownership or Occupancy:** The Dischargers shall file a written report on any changes in the Property's ownership or occupancy. This report shall be filed with the Regional Water Board no later than 30 days prior to a planned change and shall reference the number of this Order.
5. **Reasonable Access:** The Dischargers shall allow the Regional Water Board, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to enter at reasonable times to inspect the Property and any records that must be kept under the conditions of this Order for the purposes of assuring compliance with this Order or as otherwise authorized by the Water Code.
6. **Other Regulatory Requirements:** The Dischargers shall obtain all applicable local, state, and federal permits necessary to fulfill the requirements of this Order prior to beginning the work.
7. **Cost Recovery:** Pursuant to Water Code section 13304, the State or Regional Water Board is entitled to all reasonable costs it actually incurs to investigate and abate the effects of unauthorized discharges of waste and to oversee/supervise the cleanup of such waste, or other restoration action, required by this Order. The State Water Board's Site Cleanup Program Cost Recovery Program was established through the authorities of Water Code sections 13267, 13304, and 13365. The Dischargers shall pay all cost recovery invoices within 30 days of issuance of the invoice.
8. **Delayed Compliance:** If for any reason, the Dischargers 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 Executive Officer, the Discharger 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 5 days prior to the compliance date. An extension may be granted by revision of this Order or by a letter from the Executive Officer.
9. **Potential Liability:** If the Dischargers fail to comply with the requirements of this Order, this matter may be referred to the Attorney General for judicial enforcement or a complaint for administrative civil liability may be issued by the Regional Water Board. Failure to comply with this Order may result in the assessment of an administrative civil liability of up to \$10,000 per violation per day and \$10 per gallon when the violation results in the discharge of waste, pursuant to California Water Code sections 13268, 13350, and/or 13385. The Regional Water Board reserves its right to take any enforcement actions authorized by law, including, but not limited to, violation of the terms and condition of this Order.

ATTACHMENT G

Cleanup and Abatement Order
No. R1-2019-0014

- 10 -

10. **No Limitation of Water Board Authority:** This Order in no way limits the authority of the Regional Water Board to institute additional enforcement actions or to require additional investigation and cleanup of the Property consistent with the Water Code. This Order may be revised as additional information becomes available.
11. **Modifications:** Any modification to this Order shall be in writing and approved by the Regional Water Board or its delegated officer including any potential extension requests.
12. **Requesting Review by the State Water Board:** Any person aggrieved by this or any final action of the Regional Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, section 2050 et al. The State Water Board must receive the petition no later than 5:00 p.m., 30 days following 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 on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at

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

or will be provided upon request.



Digitally signed by
Claudia Villacorta
Date: 2019.02.05
13:39:02 -08'00'

Ordered by: _____

Matthias St. John
Executive Officer

ATTACHMENT G

Cleanup and Abatement Order
No. R1-2019-0014

- 11 -

Attachment 1: Groundwater Water Quality Objectives for Cleanup Projects in the North Coast Region

Typical Petroleum Underground Storage Tank Site Constituents

Constituent of Concern	Practical Quantitation Limit (µg/L)	Water Quality Objective¹ (µg/L)
Gasoline	50	5 ²
Diesel	50	100 ³
Motor oil	175	None available
Benzene	0.5	0.15 ⁴
Toluene	0.5	42 ⁵
Ethylbenzene	0.5	3.2 ⁶
Xylenes	0.5	17 ⁵
Methyl tert-butyl ether	0.5	5 ⁷
Tert-butyl alcohol	5	12 ⁸
Diisopropyl ether	0.5	0.8 ⁹
Naphthalene	1.0	17 ⁸
1,2-Dichloroethane	0.5	0.4 ⁴

¹Practical quantitation limits are based on current technology. For instances when technology cannot achieve the water quality objective the practical quantitation limit will be used.

²Published literature provides a taste and odor threshold of 5 µg/L, applied to the narrative GROUNDWATER TASTE AND ODOR water quality objective of the Basin Plan.

³Published literature provides a taste and odor threshold of 100 µg/L, applied to the narrative GROUNDWATER TASTE AND ODOR water quality objective of the Basin Plan.

⁴California Public Health Goal in Drinking Water (Office of Environmental Health Hazard Assessment), applied to the GROUNDWATER TOXICITY water quality objective in the Basin Plan.

⁵US EPA taste and odor threshold, Federal Register 54 (97):22064-22138, which is applied to the narrative GROUNDWATER TASTE AND ODOR water quality objective in the Basin Plan.

⁶Cal/EPA Cancer Potency Factor, applied to the GROUNDWATER TOXICITY water quality objective in the Basin Plan.

⁷California Department of Health Services Secondary Maximum Contaminant Level, applied to GROUNDWATER TASTE AND ODOR water quality objective in the Basin Plan.

⁸California Department of Public Health Drinking Water Notification Level, applied to the GROUNDWATER TOXICITY water quality objective in the Basin Plan.

⁹Published literature provides a taste and odor threshold of 0.8 µg/L, applied to the narrative GROUNDWATER TASTE AND ODOR water quality objective of the Basin Plan.