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January 19, 2010

VIA REGISTERED MAIL - RETURN RECEIPT REQUESTED

Heer Balwinder Singh
HBJ Partnership
c/o Gas N Go Mini Mart
1711 Fourth Street
Eureka, CA 95501

Re: Notice of Violations and Intent to File Suit under the Resource Conservation and Recovery Act

Dear Mr. Singh, HBJ Partnership, Owner, Operator, Site Manager, Managing Agent and Head of Agency:

NOTICE

The Federal Resource Conservation and Recovery Act ("RCRA") 42 U.S.C. § 6901 *et seq.*, requires that sixty (60) days prior to the initiation of an action for violation of a permit, standard, regulation, condition, requirement, prohibition or order effective under RCRA, a private party must give notice of the violation to the alleged violator, the Administrator of the U.S. Environmental Protection Agency and the State in which the violation is alleged to have occurred (42 U.S.C. § 6972(b)(1)(A)). RCRA also requires that a private party provide ninety (90) days prior notice to the alleged violator, the Administrator of the Environmental Protection Agency and the State in which the violation is alleged to have occurred before initiating an action for an imminent and substantial endangerment to human health or the environment. [42 U.S.C. § 6972(b)(2)(A)].

However, if Subtitle C, Subchapter III, violations are alleged such as in this Notice, actions can be brought without observing the 60/90 day notice waiting periods that are applicable to 42 U.S.C. § 6972(a)(1)(A) and 42 U.S.C. § 6972(a)(1)(B) claims; and, when Subtitle C, Subchapter III, claims are brought in conjunction with 42 U.S.C. § 6972(a)(1)(A) or § 6972 (a)(1)(B) claims, none of the claims require a waiting period before a complaint under RCRA provisions may be filed.

On behalf of Northern California River Watch (“River Watch”), I am providing statutory notification to H. Balwinder Singh and HBJ Partnership, (hereafter collectively referred to as “Polluters”), of continuing and ongoing violations of RCRA in conjunction with their continuing operations at the active service station site located at 1711 Fourth Street in Eureka, California. Notice of violations is provided to HBJ Partnership, as owner of the real property on which this service station is situated. Pursuant to the provisions of RCRA, the current property owner may be in part responsible for ongoing contamination of a site due to mere ownership of the real property under which hazardous contamination has been found.

River Watch hereby notifies Polluters that at the expiration of the appropriate notice periods under RCRA, River Watch intends to commence a civil action against Polluters, and each of them, on the following grounds:

1. Polluters’ use and storage of petroleum products at the service station identified in this Notice has and continues to violate permits, standards, regulations, conditions, requirements and/or prohibitions effective pursuant to RCRA regarding storage of petroleum in underground storage tanks (“USTs”) [42 U.S.C. § 6972(a)(1)(A)];
2. Polluters’ operations at the service station identified in this Notice have caused petroleum contamination of soil and groundwater which presents an imminent and substantial endangerment to human health and the environment [42 U.S.C. § 6972(a)(1)(B)].
3. Polluters’ past and current operations at the service station identified in this Notice violate the provisions of RCRA subchapter III (Subtitle C) which governs the handling of hazardous wastes. River Watch contends that Polluters have inadequately maintained records of the manner in which their hazardous wastes have been treated, stored and/or disposed of; inadequately monitored, reported and/or complied with existing regulations concerning their hazardous wastes; inadequately provided storage facilities for their hazardous wastes; and in the past have not developed adequate contingency plans for effective action to minimize damage from the unauthorized releases of hazardous contaminants – all of which has presented a substantial endangerment to human health and to the environment.

IDENTIFICATION OF THE SITE

The Gas N Go service station site is located at the northeast corner of Fourth and R Streets in Eureka, California, designated by the Humboldt County Assessor’s office as Assessor’s Parcel Number 002-065-012. The facility is an active gasoline service station with drinking water lines and sewer lines which serve the single service station structure on the property. The building is situated within a mixture of residential, commercial and industrial uses in this section of Eureka. River Watch is informed and believes the property is owned and operated by the HBJ Partnership.

This facility formerly contained four USTs with a total holding capacity of 27,800 gallons. The USTs with the related conduit lines and dispensers were removed in 1997, and replaced with two USTs in the same year. The currently active USTs contain gasoline and diesel.

Soil contamination was discovered at the site in 1987 upon the removal of a waste oil tank. Quarterly groundwater monitoring commenced by 1990. Further soil and groundwater contamination was discovered in 1997 with the decommissioning of the other USTs on site.

In 1995 the engineering consultant for the site determined that dual-phase extraction would be an effective strategy for site remediation. By 2001, this process was tested, but apparently has not been implemented, except on an interim test basis, although five extraction wells have been installed. Also in 2001 an extraction trench was constructed to deal with Non-Aqueous Phase Liquids ("NAPL"; i.e. free product). Free product continues to be found in three of the monitoring wells.

A 2005 Corrective Action Plan calculated the residual contamination at approximately 31,148 pounds of hydrocarbons beneath the site, from which approximately 11,000 pounds of gasoline product have been removed by extraction well testing and by free product skimming.

At the present time, over 20 years from the initial release of contaminants, the pollution of soil and groundwater remains unremediated. According to the latest documentation from records on file with the Regional Water Quality Control Board, the contaminant plume at the site has not been adequately characterized, and there is no end in sight for the engineering work which needs to be accomplished. In addition to a complete delineation of the contaminant plume, River Watch believes that Polluters must take efforts to protect against aquifer and surface stream impact from this plume, as well as to conduct current sensitive receptor and preferential pathway surveys.

The most current well monitoring of this site, (Second Quarter of 2009) reflects contaminant levels as follows: TPHg levels are now as high as 120,000 ug/l; benzene is as high as 10,000 ug/l; and toluene is as high as 29,000 ug/l. In the Third Quarter of 1997, *TPHg levels were considerably lower*: 56,000 ug/l; benzene was 3,100 ug/l; and toluene was 13,000 ug/l.

Accordingly, this is a situation in which River Watch must rely upon federal statutory provisions which authorize citizen suits where regulatory agency processes have not resulted in viable and timely solutions to the contaminant problems in our Northern California communities.

On the basis of the current condition of the site, River Watch believes the following remediation work must be implemented immediately:

1. Complete delineation of the site for the purpose of enabling further remediation work to proceed;
2. Initiation of active remediation work via the previously installed high volume dual-phase extraction equipment;
3. Consideration of further over-excavation to eliminate lingering sources of free product from migrating into offsite groundwater and surface water;

4. Completion of current sensitive receptor survey to outline and prevent threats to offsite surface waters and local water supply wells;
5. Completion of preferential pathway studies to determine whether there are conduits, sewer lines, storm drains, gravel lenses or other avenues by which hydrocarbons and constituents may be migrating offsite;
6. Completion of vapor intrusion studies to determine whether there is any threat to onsite and offsite building occupants via benzene vapor intrusion into living spaces or working spaces;
7. Current residual mass calculations which will allow the measurement of remediation progress once removal processes are initiated.

REGULATORY STANDARDS

The Resource Conservation and Recovery Act of 1976 - RCRA - is federal law of the United States. The goals of RCRA are the protection of the public and the environment from harm caused by waste storage and disposal, and to mandate the proper remediation of soil and groundwater contaminated by hazardous waste and hazardous products, including petroleum hydrocarbons and gasoline formula constituents. RCRA is a strict liability statute with a statute of limitations of five years. Pursuant to RCRA, California has enacted laws and regulations that must be observed in conjunction with RCRA provisions.

California has implemented "Water Quality Objectives" which exist to ensure protection of the beneficial uses of water. Several beneficial uses of water exist, and 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 need to be considered by Polluters for this site that 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 protective water quality criteria levels.

Existing and potential beneficial uses of area groundwater in the vicinity of the site include domestic, agricultural, industrial and municipal water supply.

The Regional Water Quality Control Board has adopted a Water Quality Control Plan ("Basin Plan") which designates all surface and groundwater within the North Coast region as capable of supporting domestic water supply. The Board has adopted Maximum Contaminant Levels ("MCLs") and/or California's Water Quality Objectives ("WQOs") for petroleum constituents in surface and groundwater within the region of 50 ppb for TPHg, 1 ppb for benzene, 150 ppb for toluene and 5 ppb for MTBE.

VIOLATIONS

A. PERMITS, STANDARDS AND REGULATIONS - [42 U.S.C. § 6972(a)(1)(A)]

Polluters' use and storage of petroleum products at the service station site identified in this Notice has and continues to violate permits, standards, regulations, conditions, requirements and/or prohibitions effective pursuant to RCRA regarding storage of petroleum in USTs.

From January 1, 2005 through January 1, 2010, Polluters have caused or permitted, cause or permit, or threaten to cause or permit, petroleum contaminants, petroleum constituents and other hazardous waste to be discharged or deposited where it is, or probably will be, discharged into waters of the State and now creates, or threatens to create, a condition of pollution or nuisance. The discharge and threatened discharge of such petroleum waste is deleterious to the beneficial uses of water, and is creating and threatens to create a condition of pollution and nuisance which will continue unless the discharge and threatened discharge is permanently abated.

B. MISHANDLING OF HAZARDOUS WASTE - [42 U.S.C. § 6924 *et seq.*]

From January 1, 2005 through January 1, 2010, Polluters have used and stored petroleum products the site identified in this Notice in a manner which has allowed significant quantities of hazardous petroleum constituents to be discharged to soil and groundwater beneath the site and beneath adjacent properties. The contaminant levels of TPHg, benzene, toluene, and MTBE in groundwater beneath the site are significantly greater than the allowable Maximum Contaminant Levels and/or Water Quality Objectives for said constituents.

River Watch alleges that Polluters have, at all times material, engaged in the following activities in violation of RCRA's waste handling provisions:

1. Failed to adequately maintain records of hazardous wastes as identified in this Notice which were treated, stored or otherwise disposed of on or offsite [42 U.S.C. §6924(a)(1)];
2. Failed to satisfactorily monitor, inspect, and keep reports of releases of hazardous waste from the site [42 U.S.C. §6924(a)(2)];
3. Failed to adequately treat, store or properly dispose of hazardous wastes found at the site [42 U.S.C. §6924(a)(3)];
4. Failed to adequately locate, design and construct a hazardous waste treatment, storage or disposal facility [42 U.S.C. §6924(a)(4)];
5. Failed to properly implement contingency plans for effective action to minimize unanticipated damage from treatment, storage or disposal of hazardous wastes found at the site [42 U.S.C. §6924(a)(5)].

Information currently available to River Watch indicates that Polluters' handling, treatment, storage, transportation, and/or disposal of their hazardous wastes in violation of RCRA § 3004 has occurred every day since at least January 1, 2005, or on numerous separate occasions, and that those violations are continuing.

C. UNPERMITTED HANDLING, TREATMENT, STORAGE, TRANSPORTATION AND/OR DISPOSAL OF HAZARDOUS WASTE - [42 U.S.C. § 6925 *et. seq.*]

River Watch alleges that Polluters have, at all times material, engaged in the following activities in violation of RCRA waste handling provisions:

1. Polluters' deposition and maintenance of hazardous waste as described herein causes and has caused the generation and discharge to the environment of hazardous waste;
2. Polluters have installed and maintained a system of conveyances to dispose of the hazardous generated and released from the site;
3. Polluters do not possess permits for the handling, storage, treatment, transportation, and/or disposal of their hazardous waste at the site;
4. Polluters' unpermitted handling, storage, treatment, transportation and/or disposal of their hazardous waste is in violation of RCRA § 3005, 42 U.S.C. § 6925.

Information currently available to River Watch indicates that Polluters' handling, treatment, storage, transportation, and/or disposal of their hazardous waste in violation of RCRA § 3005 has occurred every day since at least January 1, 2005, or on numerous separate occasions, and that those violations are continuing.

D. PROHIBITION AGAINST OPEN DUMPING - [42 U.S.C. § 6945 *et. seq.*]

River Watch alleges that Polluters have, at all times material, engaged in the following activities in violation of RCRA waste handling provisions:

1. Open dumping by discharge of hazardous waste to open ground where it will contaminate and has contaminated the soil, groundwater and surface waters at and surrounding the site as described herein;
2. Polluters' service station site identified in this Notice does not qualify as a landfill under 42 U.S.C. § 6944, and does not qualify as a facility for the disposal of hazardous waste.
3. Polluters have no RCRA-authorized permit for disposal, storage or treatment of solid or hazardous waste of the type currently and historically discharged at the site identified in this Notice.

Information currently available to River Watch indicates that the Polluters' open dumping in violation of RCRA § 4005 has occurred every day since at least January 1, 2005, or on numerous separate occasions, and that those violations are continuing.

E. UST REGULATIONS - [42 U.S.C. § 6991 and 42 U.S.C. §6972 (a)(1)(A)]

Provisions of RCRA govern the use and operation of USTs used for storage of petroleum products (subchapter IX, 42 U.S.C. § 6991 *et seq.*), and above ground tanks used for the same purposes. The RCRA UST regulatory program is adopted and implemented in California under the State Underground Storage of Hazardous Substance Account Act (California Health & Safety Code § 25280 *et seq.*).

From January 1, 2005 to January 1, 2010, Polluters' use and storage of petroleum at the site identified in this Notice has allowed significant quantities of hazardous petroleum constituents to be released or discharged into soil and groundwater in violation of provisions of the RCRA and California UST regulatory programs including, but not limited to, provisions governing general operating requirements for USTs, release detection and prevention requirements, release reporting and investigation requirements, and release response and corrective action requirements.

Specifically, Polluters are responsible for the following statutory violations:

1. Failure to prevent a release, in violation of 40 CFR §§ 280.30, 280.31 and California Health & Safety Code §§ 25292.1(a) - (c), 25292.3(a) and (b);
2. Failure to properly detect and monitor releases, in violation of 40 CFR §§ 280.40 - 280.44 and California Health & Safety Code § 25292;
3. Failure to properly report and keep records of the release, in violation of 40 CFR §§ 280.34, 280.50, 280.52, 280.53, 280.63(b) and California Health & Safety Code §§ 25289, 25293 and 25295(a)(1);
4. Failure to take proper corrective action, in violation of 40 CFR §§ 280.53, 280.60 - 280.66 and California Health & Safety Code § 25295(a)(1).

Information currently available to River Watch indicates that Polluters' violations of RCRA's UST regulations, RCRA § 9001, has occurred every day since at least January 1, 2005, or on numerous separate occasions, and that those violations are continuing.

F. IMMINENT AND SUBSTANTIAL ENDANGERMENT - [42 U.S.C. § 6972(a)(1)(B)]

From January 1, 2005 to January 1, 2010, Polluters used and stored petroleum products at the site identified above in a manner which has allowed significant quantities of hazardous petroleum constituents to be discharged to soil and groundwater beneath the site and beneath adjacent properties. The contaminant levels of TPHg, benzene, toluene, and MTBE in groundwater

at the site are significantly greater than the allowable Maximum Contaminant Levels and/or Water Quality Objectives said constituents. Benzene, MTBE, TAME, and TBA are known or suspected carcinogens. Toluene is a reproductive toxin. Ethylbenzene, methanol and xylene are live toxins. All are known to harm both plants and animals. In their concentrations at this site these pollutants are now creating an imminent and substantial endangerment to public health and the environment.

The violations alleged in this Notice are knowing and intentional in that Polluters have used, stored and sold petroleum products at the site identified in this Notice which are known to contain hazardous substances; and, they have intended that such products will be sold to and used by the public. Polluters have known of the contamination at the site at least since the late-1980's, and have also known that failing to promptly remediate the pollution allows the contamination to migrate through soil and groundwater at and adjacent to the site, and to continually contaminate and re-contaminate actual and potential sources of drinking water.

Violations of RCRA of the type alleged herein are a major cause of the continuing decline in water quality and pose a continuing threat to existing and future drinking water supplies of Northern California. With every discharge, groundwater supplies are contaminated. These discharges can and must be controlled in order for the groundwater supply to be returned to a safe source of drinking water.

In their concentrations at this site, these pollutants have continued to cause an imminent and substantial endangerment to public health and the environment.

Information currently available to River Watch indicates that Polluters' handling, treatment, storage, transportation, and/or disposal of their hazardous waste in violation of RCRA § 7002(a)(1)(B) has occurred every day since at least January 1, 2005, or on numerous separate occasions, and that those violations are continuing.

In addition to the violations set forth above, this Notice is intended to cover all violations of RCRA by Polluters evidenced by information which becomes available to River Watch after the date of this Notice.

IDENTIFICATION OF ENTITY/PERSON BRINGING NOTICE

The entity giving this Notice of Violations is Northern California River Watch, referred to through this Notice as "River Watch". River Watch is a non-profit corporation dedicated to the protection and enhancement of the waters of the State of California including all rivers, creeks, streams and groundwater in Northern California. River Watch is organized under the laws of the State of California. Its address is 500 No. Main St., Suite 110, Sebastopol, CA, 95472, telephone number (707) 824-4372.

The violations of Polluters as set forth in this Notice affect the economic stability, physical health and aesthetic enjoyment of members of River Watch who reside and recreate in the affected watershed areas. The members of River Watch use the watershed for domestic water supply,

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