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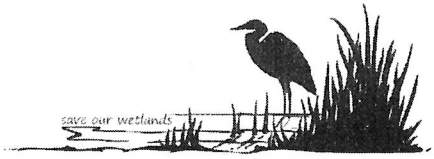

VIA REGISTERED MAIL - -
RETURN RECEIPT REQUESTED

September 9, 2014

BP West Coast Products, LLC
Atlantic Richfield Company (ARCO)
4 Centerpointe Drive
La Palma, CA 90623-2503

Operator/Site Manager
12890 San Pablo Ave.
Richmond, CA 94805

Operator/Site Manager
1040 Broadway
Burlingame, CA 94010

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

Dear Owners, Operators and Site Managers:

NOTICE

On behalf of California River Watch, ("River Watch"), this letter provides statutory notification ("Notice") to BP West Coast Products, LLC and Atlantic Richfield Company, a BP affiliated company, of continuing violations of the federal Resource Conservation and Recovery Act ("RCRA") 42 U.S.C. § 6901, *et seq.*, in conjunction with former and/or continuing operations at the hazardous product release sites identified below:

- ARCO Station No. 0508, 1040 Broadway, Burlingame, CA
- ARCO Station No. 0428, 12890 San Pablo Ave., Richmond, CA
- Former ARCO Station No. 4944, 614 Cutting Blvd., Richmond, CA
- Former ARCO Station No. 1114, 4997 Stevenson Blvd., Fremont, CA
- Former ARCO Station 1859 Contra Costa Blvd., Pleasant Hill, CA,

hereinafter referred to collectively as the "Sites".

The RCRA 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 the RCRA, a private party must give notice of the violation to the alleged violator, the Administrator of the Environmental Protection Agency ("EPA") and the State in which the violation is alleged to have occurred.

RCRA also requires that a private party provide ninety (90) days prior notice to the alleged violator, the Administrator of the EPA and the State in which the violation is alleged to have occurred before initiating an action which alleges violations resulting in imminent and substantial endangerment to human health or the environment. However, such an action may be brought immediately after such notification when a violation of Subtitle C of RCRA is alleged (subchapter III, 42 U.S.C. § 6921 *et seq.*).

Subchapter C of the RCRA requires hazardous waste to be tracked from the time of its generation to the time of its disposal, and further requires that such waste not be disposed of in a manner which may create a danger to human health or to the environment.

River Watch hereby notifies BP West Coast Products, LLC and Atlantic Richfield Company, a BP affiliated company, collectively referred to hereafter as "BP", that at the expiration of the appropriate notice period under RCRA, River Watch has cause to commence a civil action against BP, as well as the owners of the real property for each of the identified Sites[1] on the following grounds:

1. Handling, transportation and unauthorized releases of various petroleum products at the Sites has violated and continues to violate permits, standards, regulations, conditions, requirements and/or prohibitions effective pursuant to RCRA regarding the past and/or present handling, storage, treatment, transportation and/or disposal of hazardous products [42 U.S.C. § 6972 (a)(1)(A)];

2. Past and/or current operations at the Sites have caused petroleum and other contamination in soils, groundwater and surface waters which contamination presents an imminent and substantial endangerment to human health and the environment [42 U.S.C. § 6972 (a)(1)(B)]

3. Past and/or current operations at the Sites violate the provisions of RCRA subchapter III (Subtitle C) which govern the handling of hazardous wastes. River Watch contends that BP has inadequately maintained records of the manner in which hazardous wastes have been treated, stored and/or disposed of; inadequately monitored, reported and/or

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[1]Under RCRA provisions, property owners are subject to the same legal liability as site operators for contamination arising from activities on owned lands.

complied with existing regulations concerning wastes; inadequately provided storage or transportation facilities for wastes; and in the past has not developed adequate contingency plans for effective action to minimize damage from the unauthorized releases of hazardous contaminants – all of which presented and continues to present a substantial endangerment to human health and to the environment.

Under RCRA, 42 U.S.C. § 6972(a)(1)(A), Notice regarding an alleged violation of a permit, standard, regulation, condition, requirement, or order which has become effective under the RCRA, shall include sufficient information to permit the recipient to identify the following specific information:

1. Specific permit, standard, regulation, condition, requirement, or order which has allegedly been violated:

Enacted in 1976, RCRA is a Federal law of the United States contained in 42 U.S.C. §§ 6901-6992k. Its goals are: to protect the public from harm caused by waste disposal; to encourage reuse, reduction, and recycling; and, to clean up spilled or improperly stored wastes.

The Environmental Protection Agency's ("EPA") waste management regulations are codified at 40 C.F.R. §§ 239-282. Regulations regarding management of hazardous waste begin at 40 C.F.R. § 260. Pursuant to the RCRA, the State of California has enacted laws and promulgated regulations that are at least as stringent as the federal regulations.

River Watch contends the tracking, manifesting, labeling, use, disposal, treatment, and storage of wastes by BP at each of the Sites, and the disposal of those wastes, has violated and continues to violate permits, standards, regulations, conditions, requirements and/or prohibitions effective pursuant to the RCRA regarding hazardous waste. 42 U.S.C. § 6972(a)(1)(A).

River Watch contends past and/or current operations at the Sites have caused contamination of soil, groundwater, surface waters and air, which contamination presents an imminent and substantial endangerment to human health and the environment. Further, that BP owns or operates on-site dumps, discrete conveyances, conduits, preferential pathways and/or wells which have contributed to the transport, partial treatment, storage, or disposal of the wastes at the Sites. 42 U.S.C. § 6972(a)(1)(B).

2. The Activities Alleged to Constitute Violations

Narratives have been set forth below describing with particularity the activities leading to the violations alleged in this Notice. In summary, RCRA requires that the environment and public be protected from the hazardous wastes generated by BP. Pollutants

described herein found at the Sites constitute hazardous waste under the RCRA, and are required to be managed so as to not cause endangerment to the public or the environment. The RCRA specifically protects groundwater.

The liability of BP stems from either its ownership or operation of the Sites, or activities conducted at the Sites by BP which violate RCRA and have contributed to the past or present handling, storage, treatment, transportation, or disposal of any hazardous waste which may present an imminent and substantial endangerment to health or the environment.

River Watch further alleges BP to be in violation of a permit, standard, regulation, condition, requirement, prohibition, or order which has become effective pursuant to RCRA; that BP is guilty of open dumping, as that term is used in the RCRA, by discharging pollutants to the open ground, allowing these pollutants to discharge to both groundwater and surface waters.

The Sites do not qualify as landfills under 42 U.S.C. § 6944, and do not qualify as facilities for the disposal of hazardous waste. BP is not in possession of a RCRA-authorized permit for disposal, storage or treatment of solid or hazardous waste of the type currently and historically discharged at the Sites.

The liability of BP also stems from its ownership or operation of discrete conveyances, conduits, preferential pathways or wells which have caused pollutants to be discharged to surface and ground waters via conduits such as pipes and piping, sewer lines, storm drains, utilities and the like, facilitating pollutant migration and discharge to waters of the State of California and the United States, and contributing to the past or present handling, storage, treatment, transportation, or disposal of any hazardous waste which may present an imminent and substantial endangerment to health or the environment.

BP's past and current operations at the Sites violates the provisions of RCRA Subtitle C governing the handling of hazardous wastes. River Watch contends that BP has inadequately maintained records of the manner in which hazardous wastes have been treated, stored and/or disposed of; inadequately monitored, reported and/or complied with existing regulations concerning wastes; inadequately provided storage for wastes; and has not developed adequate contingency plans for effective action to minimize damage from the unauthorized releases of hazardous contaminants – all of which presented a substantial endangerment to human health and to the environment. River Watch contends that BP does not possess the requisite RCRA authorized permits for the handling of hazardous materials at the Sites.

3. *The discharger responsible for the alleged violation.*

The discharger responsible for the alleged violations are the addressees of this Notice and the entities identified herein, referred to as BP.

4. *The date or dates of violations or a reasonable range of dates during which the alleged activities occurred.*

The RCRA is a strict liability statute with a 5-year statute of limitations; therefore, the range of dates covered by this Notice is September 5, 2009 through September 5, 2014. River Watch will from time to time supplement this Notice to include all violations which occur after the date of this Notice. The majority of the violations identified in this Notice such as discharging pollutants into soils and groundwater and/or surface waters; failure to obtain RCRA-authorized permits; failure to implement the requirements of RCRA; failure to properly label, track or report the type, quantity or disposition of waste; failure to use a manifest system to ensure waste generated is properly handled, stored, treated or disposed of; and, failure to meet water quality objectives, are continuous. Therefore each day is a violation.

River Watch believes all violations set forth in this Notice are continuing in nature or will likely continue after the filing of a lawsuit. Specific dates of the other violations are evidenced in BP's own records (or lack thereof) or files and records of other agencies including, but not limited to the Regional Water Quality Control Board and GeoTracker data files.

5. *The full name, address, and telephone number of the person giving notice:*

The entity giving this Notice is California River Watch, a non-profit corporation with headquarters in Sebastopol, California, organized under the laws of the State of California, dedicated to protect, enhance and help restore the groundwater and surface waters environs of California including, but not limited to, its rivers, creeks, streams, wetlands, vernal pools, and tributaries. River Watch may be contacted via email: US@ncriverwatch.org, or through its attorney. River Watch has retained legal counsel with respect to the issues raised in this Notice. All communications should be addressed to:

Jack Silver, Esquire
Law Office of Jack Silver
P.O. Box 5469
Santa Rosa, CA 95402
Tel. (707) 528-8175
Email: lhm28843@sbcglobal.net

The violations of BP 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 watersheds for domestic water supply, agricultural water supply, recreation, sports, fishing, swimming, shellfish harvesting, hiking, photography, nature walks and the like. Their health, use and enjoyment of these natural resources are conditions specifically impaired by these violations of RCRA.

THE SITES - BACKGROUND AND HISTORY

ARCO Station No. 0508, 1040 Broadway, Burlingame, CA

BP's ARCO-branded service station number 0508 is an active retail fuel dispensing station located at the northwest corner of the intersection of Broadway and Rollins Road, in a commercial zone of Burlingame, adjacent to the automobile dealerships, automobile repair facilities, an office complex and Highway 101 to the east. The underlying real property is believed to be owned by Linda Feng Min Sun and Jennifer Hsu. Groundwater underlying the site flows generally to the north, and has been found at approximately 4 to 5 feet bgs. The elevation is approximately 12 ft. above mean sea level. Beneficial uses of groundwater at this location include domestic supply, municipal use, industrial process and industrial service water supply.

An unauthorized hydrocarbon release was discovered in June of 2001. Analytical assessments of the extent of contamination in and around the site were initiated in early 2002, following the removal of 3 single-walled, 12,000 gallon, fiberglass underground storage tanks ("USTs"), product lines and dispensers.

Over the years since the initial release, 9 monitoring wells have been installed along with 2 shallow remediation wells (2012) for the purpose of sulfate application events intended to moderate the existing hydrocarbon contamination by enhancing biodegradation. Soil borings have been conducted in and around the site for the purpose of plume delineation. A sensitive receptor survey was conducted to determine the existence of public and/or private water wells. None were found within a 500 ft. radius from the site. Some limited over-excavation has occurred consistent with continued retail operations, but no extraction efforts have been reported and none appear planned.

On the basis of the last uploaded analytical data from the monitoring wells as reported in March of 2014, and despite the administration of sulfate, TPHg levels were as high as 14,000 ug/l, TBA was found at 5,700 ug/l, benzene was found as high as 3,300 ug/l, xylenes were as high as 3,200 ug/l, and MTBE was found at 2,000 ug/l. According to the regulator (correspondence of March 10, 2014), SB-4 (near existing carwash) had a recent sample containing 120,000 ug/l TPHg, 11,000 ug/l benzene and 21,000 ug/l MTBE. Previous analytical monitoring in 2012 and 2013 found considerably lower levels of contamination across the board, some less by several orders of magnitude.

At present, monthly sulfate application efforts are being made, and groundwater is monitored on a quarterly basis. No other remediation strategies have been implemented.

On the basis of the current condition of this site, River Watch believes the following investigatory and remediation work must be implemented immediately in order to more effectively and comprehensively manage the levels of contamination:

1. Complete site delineation (including vertical contaminant delineation) for the purpose of enabling a comprehensive evaluation of the extent of underlying contamination so that adequate remediation work may proceed. According to the regulator, gaps in data must be filled before an adequate site assessment can be achieved. The regulator has questioned whether the current monitoring is representative of the extent of biodegradation that may be occurring.

2. Development of a remediation strategy more effective in eliminating or significantly reducing the current threat to the environment and human health. This could include further over-excavation or other methods, such as HVDPE or bioremediation. Such remediation strategy should have a strong likelihood of achieving state mandated Maximum Contaminant Levels or pre-existing background levels within a reasonable time frame.

3. Initiation of vapor intrusion testing for any buildings or work areas above the plume to determine whether employees at the site and/or third parties nearby at the commercial and adjacent residential units are being exposed to injurious levels of hydrocarbons, benzene or other toxic vapors.

4. Completion of preferential pathway studies to determine whether there are as yet undiscovered conduits, sewer lines, storm drains, gravel lenses or other avenues by which hydrocarbons and petroleum constituents may be migrating offsite, given the shallow water table. The San Francisco Bay is within one-half mile (2,500 ft.) of this site.

5. Ongoing residual mass calculations for hydrocarbons underlying this site will allow the measurement of remediation progress once remediation processes are initiated.

ARCO Station No. 0428, 12890 San Pablo Ave., Richmond, CA

This active ARCO-branded service station is located on the northeast corner of San Pablo Avenue and McBryde Avenue in a combined commercial and residential section of Richmond. The underlying real property is owned by BP West Coast Products of Buena Park.

Groundwater underlying the site flows generally to the north and northwest, and usually lies between 26 and 35 ft. bgs. Sensitive receptor survey work in 2009 confirmed Wildcat Creek located approximately 0.5 miles downgradient. No water supply wells were found within 0.5 miles from the site. A number of day care centers and schools are found within that radius.

Contamination was first discovered in approximately 1989 in conjunction with a tank replacement assessment. Five USTs were replaced in November of 1989. Soil excavation was conducted to accommodate the new tanks and eliminate some of the existing contaminants in soils. Groundwater monitoring followed in 1990 and 1991. A SVE/AS system was installed in 1994. The SVE system was operated intermittently until 2004, and has been offline since that time, apparently due to low influent vapor concentrations. Further evaluations in 2011 determined that further SVE/AS implementation would not be conducive to site remediation. As a result, in 2011 the contractor for the recommended MNA as a feasible remediation alternative.

No active remediation is being conducted at this time, while further delineation work is being done to assess plume characteristics to the west and southwest of the site. Additional investigations intend to determine the potential impact of offsite sources of hydrocarbons. Site-wide analytical monitoring in February of 2014 found GRO levels as high as 52,000 ug/l, benzene levels as high as 19,000 ug/l, xylenes as high as 6,300 ug/l, ethylbenzene as high as 3,300 ug/l and MTBE levels as high as 4,500 ug/l. Groundwater samples from boring B-1 have recently produced highly elevated concentrations of GRO (370,000 ug/l), benzene at 30,000 ug/l, toluene at 47,000 ug/l, ethylbenzene at 13,000 ug/l and xylenes at 60,000 ug/l.

On the basis of the current condition of this site, River Watch believes the following investigatory and remediation work must be implemented in order to more effectively and comprehensively manage the levels of contamination:

1. More proactive efforts directed towards source control and contamination removal. One such regime should include additional over-excavation. Other methods of neutralizing the hydrocarbon contamination, such as ISCO, need to be evaluated. MNA does not have the capacity to reduce or eliminate the existing contamination within a reasonable number of years.

2. In addition to the obvious data gaps in the horizontal off-site assessments, vertical delineation work needs to be completed beyond what has already been accomplished – chiefly in order to insure that hydrocarbon contamination will not be impacting the better quality water in the underlying aquifer.

3. Initiation of vapor intrusion testing for any buildings or work areas above the plume to determine whether employees at the site and/or third parties nearby are being exposed to injurious levels of hydrocarbons, benzene or other toxic vapors.

4. Ongoing residual mass calculations for the hydrocarbons underlying this site will allow the measurement of remediation progress once remediation processes are initiated. Residual contaminant mass estimates and concentration regression modeling already conducted does not provide a reliable evaluation of plume decreases in size, given the existing data gaps in delineation and given the high values of constituents that continue to be found in some areas.

Former ARCO Station No. 4944, 614 Cutting Blvd., Richmond, CA

Between the early 1950s and the early 1980s, this site served as a retail gasoline service station and petroleum storage area. This former ARCO-branded service station is now a vacant lot located on the southeastern corner of Cutting Boulevard and Hoffman Boulevard in an area of Richmond zoned as "business light industrial." The underlying real property is believed to be owned by Sterns-Barnum & Associates of Oakland.

Groundwater flow is to the northwest into the San Antonio aquifer toward San Pablo Bay. Groundwater at the site is generally encountered at depths ranging from 9 to 19 ft. bgs. Between 2001 and 2013, groundwater elevations have ranged from -2.68 to 4.9 ft. amsl. The nearest surface water is the Lauritzen Canal, 1,000 ft. to the west-southwest (downgradient to cross gradient). The beneficial uses of the San Antonio aquifer include municipal and domestic supply, agricultural water supply and industrial service and industrial process supply. However, the groundwater beneath the site is not used as a potable source.

The last unauthorized hydrocarbon release occurred sometime in the early 1980s. Previous remediation included excavations associated with the removal of the former USTs in approximately 1984. Site investigations and the initial site assessment occurred between 1997 and 1999, followed by monitoring well sampling that commenced in 2001. There are currently only 4 monitoring wells at the site; of these, MW-1 is sampled quarterly and the remaining 3 are sampled semi-annually.

Previous preferential pathway work has determined that a storm drain and storm drain trench adjacent to the site may serve as potential conduits for the migration of hydrocarbon contamination. However, this pathway does not seem to have been the object of any specific pathway study.

In September of 2011, an 8-hour groundwater VTE event was conducted for the purpose of remediating groundwater and soil vapors around MW-1. A second short-term event was conducted in August of 2012. In both instances, samples of groundwater were

taken, and the 1,500 gallons of groundwater extracted was removed for treatment and recycling.

On the basis of the most recent monitoring conducted in August of 2013, GRO levels at MW-1 were as high as 26,000 ug/l; Ethylbenzene was found as high as 3,700 ug/l, DRO were as high as 3,500 ug/l, xylenes were as high as 2,500 ug/l, and benzene was found to be at 2,200 ug/l.

Considering that contamination levels at MW-1 have remained stable or have increased from time to time, River Watch believes the following investigatory and remediation work must be implemented before the site may be considered for low-threat closure.

1. Proactive efforts should be directed to implementing removal via HVDPE or other systems in order to achieve better source control. River Watch agrees with the Regional Water Quality Control Board (June 18, 2014) that the secondary source of hydrocarbons has not been removed to the extent practicable. The mass of contamination at the site continues to represent an ongoing threat to human health at such time as this vacant area is developed by industry.

2. Development of a remediation strategy more effective in eliminating or significantly reducing the current threat to the environment and human health. This could include further over-excavation or other methods, such as ORC to enhance bioremediation. Such remediation strategy should have a strong likelihood of achieving state mandated Maximum Contaminant Levels or pre-existing background levels within a reasonable time frame.

3. Completion of preferential pathway studies to determine whether there are as yet undiscovered conduits, sewer lines, storm drains, gravel lenses or other avenues by which hydrocarbons and petroleum constituents may be migrating offsite towards surface water bodies such as the Lauritzen Canal.

4. Ongoing residual mass calculations for the hydrocarbons underlying this site will allow the measurement of remediation progress once remediation processes are initiated.

Former ARCO Station No. 1114, 4997 Stevenson Blvd., Fremont, CA

This former ARCO-branded service station site is currently an unfenced vacant lot located on the northernmost corner of Stevenson Boulevard and Blacow Road. The underlying real property is believed to be owned by John & Barbara M. Brooks, c/o Ardenbrook, Inc. of Fremont. The former service station facilities were razed and USTs

were removed in early 2008. The surrounding area is comprised primarily of commercial retail with a residential housing complex directly to the east, and John F. Kennedy High School on the western corner of the intersection. Groundwater flows to the southwest, and is found at depths between 6 and 35 ft. bgs. The site is located approximately one mile east (upgradient) of Mowry Slough. The existing beneficial uses of the underlying aquifer include municipal and domestic supply, industrial service and industrial process and agricultural supply.

The initial unauthorized release occurred as early as 1983 when then existing USTs were removed and replaced. A variety of investigations and remediation efforts have occurred over the past several decades. Monitoring began in 1989, and a DPE system was in operation in 1994 and 1995, and again between March of 1998 and August of 1999.

Following UST removal in 2008, some over-excavation was conducted in the UST trenches. Also in 2008 12,000 pounds of gypsum was added to the backfill to enhance natural attenuation of existing contaminants. No other proactive remediation work has been conducted. Current operations are confined to monitoring and sampling of contaminant levels, and investigations with respect to the presence of LNAPL at several CPT locations.

As of the last uploaded analytical monitoring and sampling in January of 2014, TPHg levels were found in soils as high as 480,000 ug/kg; TPHg in groundwater was found to be as high as 59,000 ug/l, benzene was as high as 16,000 ug/l, xylenes were as high as 11,000 ug/l, and ethylbenzene was as high as 3,800 ug/l.

On the basis of the current condition of this site, River Watch believes the following investigatory and remediation work must be implemented in view of the ongoing threat to human health and environmental degradation this site continues to represent. This is not a site that is currently ready to be considered for low-threat closure.

1. Because of the extremely high contamination values, proactive remediation strategies should be initiated and directed to implementing the removal of free product via HVDPE or other systems in order to achieve much better source control.

2. Completion of preferential pathway studies to determine whether there are as yet undiscovered conduits, sewer lines, storm drains, gravel lenses or other avenues by which hydrocarbons and petroleum constituents may be migrating offsite via the aquifer towards Mowry Slough.

3. Ongoing residual mass calculations for the hydrocarbons underlying this site will allow the measurement of remediation progress once remediation processes are initiated.

Former ARCO Station 1859 Contra Costa Blvd., Pleasant Hill, CA

This site is a former ARCO retail fuel dispensing station. The San Francisco Bay Regional Water Quality Control Board has requested reports and GeoTracker compliance on multiple occasions for purposes of determining the nature and extent of contamination. The last such correspondence was sent by the Regional Board in June of 2013, and has not as yet resulted in a response from BP, at least on the basis of files uploaded to GeoTracker.

River Watch remains concerned about the nature and extent of hydrocarbon contamination. It would appear any unauthorized hydrocarbon discharges at this former service station site have not been monitored or assessed. The hydrocarbons which are presumed to exist in soil and groundwater in and around the site have not been remediated or proactively moderated by any feasible measures to date. Accordingly, the secondary source has not been managed, and apparently continues to migrate downgradient via any existing preferential pathways, threatening any existing downgradient sources of water and water supplies.

On the basis of the presumed currently unremediated condition of this site, River Watch believes the following investigatory and remediation work must be implemented immediately in order to more effectively and comprehensively manage the levels of contamination:

1. Site delineation pursuant to Regional Water Quality Control Board directives and protocols. Once achieved, efforts must be directed to proactively address the extent of assumed hydrocarbon contamination by all feasible means, such as over-excavation or HVDPE.

2. Initiation of vapor intrusion testing for any buildings or work areas above the plume to determine whether employees at the site and/or third parties nearby, both commercial and residential, are being exposed to injurious levels of hydrocarbons, benzene or other toxic vapors.

3. Completion of preferential pathway studies to determine whether there are as yet undiscovered conduits, sewer lines, storm drains, gravel lenses or other avenues by which hydrocarbons and petroleum constituents may be covertly migrating offsite.

REGULATORY STANDARDS

The Resource Conservation and Recovery Act of 1976 is a federal environmental law of the United States, the goals of which 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 establishes a national

policy that, wherever feasible, the generation of hazardous waste must be reduced or eliminated as expeditiously as possible. Pursuant to RCRA provisions, California has enacted laws and regulations that must be observed in conjunction with RCRA regulations.

California's "Water Quality Objectives" 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 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.

The Regional Water Quality Control Board has adopted a Water Quality Control Plan ("Basin Plan") which designates surface and groundwater within the region of the Facility as capable of supporting domestic water supply unless specifically designated as having lesser uses such as industrial or agricultural. The Regional Board has adopted Maximum Contaminant Levels ("MCLs") and/or Water Quality Objectives for petroleum constituents in surface and groundwater within the region of 100 ppb for TPHg (CA cleanup standard), 1 ppb for benzene, 150 ppb for toluene and 13 ppb for MTBE.

VIOLATIONS

Permits, Standards and Regulations
42 U.S.C. § 6972(a)(1)(A)

BP's use, storage, handling and transportation of petroleum products at the Sites has violated and continues to violate permits, standards, regulations, conditions, requirements and/or prohibitions effective pursuant to RCRA regarding storage of petroleum in underground storage tanks. 42 U.S.C. § 6972(a)(1)(A).

River Watch alleges that from September 5, 2009 through September 5, 2014, BP has caused or permitted, causes or permits, or threatens 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.

Mishandling of Hazardous Waste
RCRA § 3004, 42 U.S.C. § 6924 et seq.

BP has used, handled, stored and transported petroleum products at the Sites in a manner which has allowed significant quantities of hazardous petroleum constituents and other toxic chemicals to be discharged to soil and groundwater beneath the Sites and beneath adjacent properties. The contaminant levels of TPHg, benzene, and other toxic contaminants in groundwater at the Sites are significantly greater than the allowable MCLs and/or WQOs for said constituents.

River Watch alleges that from September 5, 2009 through September 5, 2014, BP has engaged in the following activities or omissions in violation of RCRA waste handling provisions:

1. Failure to adequately maintain records of hazardous wastes which were used, handled, treated, stored or otherwise disposed of on or offsite [42 U.S.C. §6924(a)(1)];

2. Failure to satisfactorily monitor, inspect, and report in accordance with RCRA provisions [42 U.S.C. §6924(a)(2)];

3. Failure to adequately use, handle, treat, store or properly dispose of hazardous waste found at the Sites [42 U.S.C. §6924(a)(3)];

4. Failure to adequately locate, design and construct a hazardous waste treatment, storage or disposal facility [42 U.S.C. §6924(a)(4)];

5. Failure to properly implement contingency plans for effective action to minimize unanticipated damage from the handling, transportation, treatment, storage or disposal of hazardous waste found at the Sites. [42 U.S.C. §6924(a)(5)].

Unpermitted Handling, Treatment, Storage, Transportation and/or Disposal of Hazardous Waste
RCRA § 3005, 42 U.S.C. § 6925 et. seq.

River Watch alleges that from September 5, 2009 through September 5, 2014, BP has engaged in the following activities or omissions in violation of RCRA waste handling provisions:

1. Deposition and maintenance of hazardous waste as described herein causing the generation and discharge of hazardous waste at the Sites to the environment.

2. Installation and maintenance of a system of conveyances to dispose of hazardous generated and released from the Sites.

3. Failure to possess specific permits for the handling, storage, treatment, transportation, and/or disposal of hazardous or solid waste at the Sites.

Prohibition Against Open Dumping
RCRA § 4005, 42 U.S.C. § 6945 et. seq.

River Watch alleges that from September 5, 2009 through September 5, 2014, BP has engaged in the following activities or omissions in violation of RCRA provisions:

1. Engaging in open dumping by way of the discharge of hazardous waste to open ground where it will contaminate and has contaminated the soils, ground and surface waters at and surrounding the Sites, as described herein.

2. The Sites do not qualify as landfills under 42 U.S.C. § 6944, and do not qualify as facilities for the disposal of hazardous waste.

3. Failure to possess a RCRA-authorized permit for the disposal, storage or treatment of solid or hazardous waste of the type currently and historically discharged at the Sites.

RCRA UST Regulations
RCRA § 9001, 42 U.S.C. § 6991

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.).

River Watch alleges that from September 5, 2009 through September 5, 2014, BP's use and storage of petroleum and other chemicals at the Sites has allowed significant quantities of hazardous chemical 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, River Watch alleges that BP is 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).

Imminent and Substantial Endangerment
RCRA § 7002(a)(1)(B), 42 U.S.C. § 6972 (a)(1)(B)

River Watch alleges that from September 5, 2009 through September 5, 2014, BP has used, handled, transported and/or stored petroleum products and other chemicals at the Sites in a manner which has allowed significant quantities of hazardous petroleum and chemical constituents to be discharged to soil and groundwater beneath the Sites and beneath adjacent properties. The contaminant levels of TPHg, benzene, and other toxic compounds in groundwater at and surrounding the Sites are significantly greater than the allowable MCL and/or WQO for said constituents. Benzene and TPHg are known or suspected carcinogens. These substances are known to harm both plants and animals. In their concentrations at these locations, these pollutants now create an imminent and substantial endangerment to public health and the environment.

The violations alleged in this Notice are knowing and intentional in that BP has used and stored chemical substances and products at the Sites which are known to contain hazardous substances. River Watch alleges BP has known of the contamination at the Sites at least since the past five years prior to the date of this Notice, and has also known that failing to promptly remediate the pollution allows the contamination to migrate through soil and groundwater at and adjacent to the Sites, and to continually contaminate and re-contaminate actual and potential sources of drinking water.

Information currently available to River Watch indicates that BP's violations of the RCRA as itemized above have occurred every day over the past five years prior to the date of this Notice, and/or on numerous separate occasions, and that those violations are continuing.

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

CONCLUSION

River Watch believes this Notice sufficiently states grounds for filing suit under the statutory and regulatory provisions of RCRA as to the Sites. At the close of the notice periods, River Watch has cause to file a suit against BP under RCRA provisions for each of the violations as alleged herein, and with respect to the existing conditions at the Sites.

River Watch is willing to discuss effective remedies for the violations referenced in this Notice. If BP wishes to pursue such discussions in the absence of litigation, we would encourage BP to initiate such discussions immediately so that the parties might be on tract to resolving the issues raised in this Notice before these RCRA claims are filed. River Watch will not delay the filing of a lawsuit if discussions have not commenced within a reasonable time following the receipt of this Notice.

Very truly yours,

Jack Silver

JS:lhm

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