

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of the)
Petition of)
CITIZENS FOR A BETTER)
ENVIRONMENT)
for Review of the Failure)
to Act by the California)
Regional Water Quality)
Control Board, Los Angeles)
Region. Our File No. A-331.)

ORDER NO. WQ 84- 1

BY THE BOARD:

On March 28, 1983, Citizens for a Better Environment (CBE) requested the California Regional Water Quality Control Board, Los Angeles Region (Regional Board) to initiate a program of immediate leak detection, clean-up, and prevention of leaks of hazardous materials from underground storage tanks. On April 28, 1983, the State Board received a timely petition from CBE for review of the Regional Board's failure to act on petitioner's request.

I. BACKGROUND

In June 1982, CBE submitted a report entitled "On-Site Hazardous Waste Management in Los Angeles County, California" by Michael Belliveau to the Regional Board. The report contained a comprehensive evaluation of on-site hazardous waste management activities in Los Angeles County and included recommendations for the improvement of regulatory efforts to control these activities.

With respect to underground storage tanks, in particular, the report concluded that the storage of hazardous materials in underground tanks poses a significant and essentially unregulated risk of contamination to groundwater. The report cited an investigation undertaken by the San Francisco Bay Regional Board in early 1982 to detect chemical leaks from underground storage tanks in Alameda, San Mateo, and Santa Clara Counties. The investigation was prompted by the closure in December 1981 of a Great Oaks Water Company well in the Santa Clara area. The well was shut down after almost 14,000 gallons of trichloroethane (TCA), a solvent linked to cancer, and more than 44,000 gallons of other organic solvents leaked from an underground tank over an eighteen-month period. Concentrations of TCA in the groundwater, from which the well water was drawn, were far in excess of levels suggested to present a relatively low risk to human health. Following this discovery, the San Francisco Bay Regional Board sent out approximately 1950 questionnaires to industries in the three counties. Information contained in the responses revealed that a number of industries had underground storage tanks with a high risk of leakage. These industries were required to implement an immediate leak detection program. Eighty percent of these high priority sites, in fact, had leaks. Once a leak was detected, the Board required the affected industry to conduct an investigation to determine the extent of soil or groundwater contamination and to undertake corrective measures.

The CBE report included a list of 62 industrial firms which store or treat hazardous wastes in underground tanks in Los Angeles County. This list was compiled by CBE from a manual review of Environmental Protection Agency

files. The report recommended that the Regional Board undertake a broad program, modeled after that of the San Francisco Regional Board, for the detection, abatement, and prevention of groundwater pollution due to the leakage of hazardous materials from underground storage tanks. The report also recommended that the list of 62 firms be used to establish the first round of priority facilities for implementation of a leak detection program.

At the November 1982 meeting of the Los Angeles Regional Board, staff presented a response to the CBE report. The response, however, failed to address the issue of the potential leakage of hazardous materials from underground storage tanks in the Los Angeles region or the CBE recommendation that the Regional Board undertake an investigation similar to the one undertaken by the San Francisco Regional Board. At the November meeting, CBE presented additional comments to the Regional Board regarding the need for an investigation of potential groundwater contamination due to leakage of hazardous materials from underground tanks. After receiving these comments, the Regional Board ordered its staff to report back to the Board at its January meeting with an analysis of the feasibility of conducting a leak detection and correction program.

At the Regional Board's January 1983 meeting staff recommended that the Board find that it had insufficient resources to directly undertake a leak detection program and that, as an alternative, staff should be directed to continue to work with the County's Hazardous Materials Coordinating Committee and with affected public agencies. CBE again submitted comments on the need for a leak detection program and presented a recommended program modeled after

that of the San Francisco Bay Regional Board. At this time the Regional Board voted unanimously to reallocate three staff members to the task of defining the underground storage tank problem. The task was to include the initiation of a detection program, which would include use of the questionnaire developed by the San Francisco Regional Bay Board. The Board designated the San Fernando and San Gabriel Valleys as the first priority for investigation. The Board also thanked its executive officer for his agreement to provide a work outline at the Board's February meeting and requested that monthly progress reports be submitted thereafter.

At the Regional Board's February 1983 meeting, the executive officer reported that four staff members had been assigned to the underground tank problem. The executive officer indicated that their first aim was to determine if there was a problem and, if so, to identify it and recommend preventative measures. To these ends, the group had begun a number of tasks, including contacting public agencies and private industry, identifying priority industries with the greatest potential for adversely impacting groundwater quality, and preparing a list of firms for field visits. No work outline, however, was presented, and the executive officer indicated that he was evaluating the San Francisco Bay Regional Board's questionnaire to determine its applicability to the Los Angeles region.

The following month CBE again appeared before the Regional Board. CBE expressed concern about staff's apparent lack of progress in implementing the Regional Board's January resolution. In particular, CBE noted the lack of a written work plan and the apparent lack of work products from the staff

assigned to the underground tank problem. CBE urged the Regional Board to enforce its January resolution and to undertake a policy of immediate leak detection, clean-up, and development of preventative programs. After CBE's presentation, Regional Board's executive officer reported that four staff members had been working on the investigation, that a draft questionnaire would be presented to the Board in April, and that he contemplated presentation of a preliminary report to the Regional Board in May. The Regional Board did not act on CBE's request for immediate implementation of a leak detection program, and it is this refusal to act which prompted the present petition.

II. CONTENTIONS AND FINDINGS

CBE contends that the Regional Board's failure to act was improper because the Regional Board has clear authority to act in this matter under Water Code Sections 13225 and 13267, and because the results of the San Francisco Bay Regional Board's leak detection program indicate that there is a high likelihood that a similar survey conducted in the Los Angeles region would identify a sizeable number of leaking underground tanks. CBE requests that the State Board adopt an order directing the Regional Board to take a series of specific actions within 30 days of issuance of the order leading to the identification of underground tanks which may pose a threat to water quality and to carry out all future stages of its underground tank investigation expeditiously.

Since the filing of the CBE petition, several events have occurred which obviate the necessity for the relief requested by CBE. In May 1983 the

Regional Board directed its executive officer to prepare a detailed work plan and time schedule for continuation of the underground tank investigation. Staff presented a proposed work plan and time schedule to the Regional Board at its June 1983 meeting. At this meeting, the Regional Board appointed a subcommittee of its members to provide direction to staff in implementing the program and to monitor staff activities and report back to the full Board. In addition, the Regional Board approved the questionnaire proposed by staff.

In August the Regional Board formally requested State Board assistance in developing a project proposal for the Regional Board's underground tank program. The State Board assigned staff to this task.

At the end of November 1983 a comprehensive draft work plan and time schedule were completed by State Board staff. This work plan was formally approved by the Regional Board on December 19, and it is currently under review by the State Board. Development of the work plan has proceeded concurrently with continuation of the underground tank investigation by the Regional Board.

Over the past several months a number of tasks in the investigation have been completed by the Regional Board. Specifically, all of the 62 firms identified in the CBE report have been field-checked. Fifty-two¹ of these firms were sent questionnaires in July, 1983. Utilizing the same criteria as that of the San Francisco Bay Regional Board, the Los Angeles Regional Board

¹ Questionnaires were not sent to the remaining 10 firms because field checks indicated that these sites had surface impoundments with leak detection monitoring systems or groundwater monitoring systems, or the firms were out of business.

identified 16 of the firms responding to the questionnaire as priority one sites.² On November 18, 1983, these firms were sent requests for implementation of a leak detection program. Guidelines for conducting a leak detection program have also been developed for the assistance of firms required to implement a detection program.

Additionally, the Regional Board has sent out more than 3,000 questionnaires to firms in the San Fernando Valley. Thirty-one of the sites which responded to the questionnaire have been identified as priority one sites and have been requested to initiate a leak detection program.

Results of the 47 requests for leak detection programs are due in February, 1984. Following review of these results, the Regional Board will send out requests for leak investigation programs. The investigation programs will define the vertical and lateral extent of contamination and will develop cleanup or mitigation measures, if appropriate.

The Regional Board members have been kept up-to-date on the progress of the investigation with monthly reports. These will continue over the life of the program.

In addition to the Regional Board's efforts, progress has been made in the legislative arena. In April, 1983 a report was published by the Assembly Office of Research entitled "Is Our Water Safe to Drink?" The report

² "Priority one sites" are sites which pose the greatest threat of an adverse impact on groundwater. These sites have underground metal tanks or concrete sumps, which were installed before January 1, 1978, which have at any time contained hazardous material, and which do not have existing leak monitoring systems.

documented the dangers of contamination of underground drinking water supplies with toxic chemicals and proposed legislation to require the use of practical preventive procedures to protect these supplies. In response to the call for legislation, two bills were passed in September which address the underground storage of hazardous substances. Assembly Bill 2013,³ authored by Assemblyman Dominic Cortese, requires every person storing hazardous substances in underground containers to file a hazardous substance storage statement with the State Board no later than July 1, 1984. Assembly Bill 1362,⁴ authored by Assemblyman Byron Sher, prohibits any person from owning or operating an underground storage tank, used for the storage of hazardous materials, without a permit from a local agency. The statute also requires that all underground storage tanks installed after January 1, 1984, comply with certain specifications concerning design, construction, monitoring systems, and drainage. Tanks installed on or before that date must have a monitoring system installed before January 1, 1985, and have a means for inspection.

In sum, the Regional Board has made substantial progress, since the filing of the CBE petition, in its underground tanks investigation. The Regional Board's efforts have also been strengthened by the passage of the Sher and Cortese bills, which regulate the underground storage of hazardous substances.

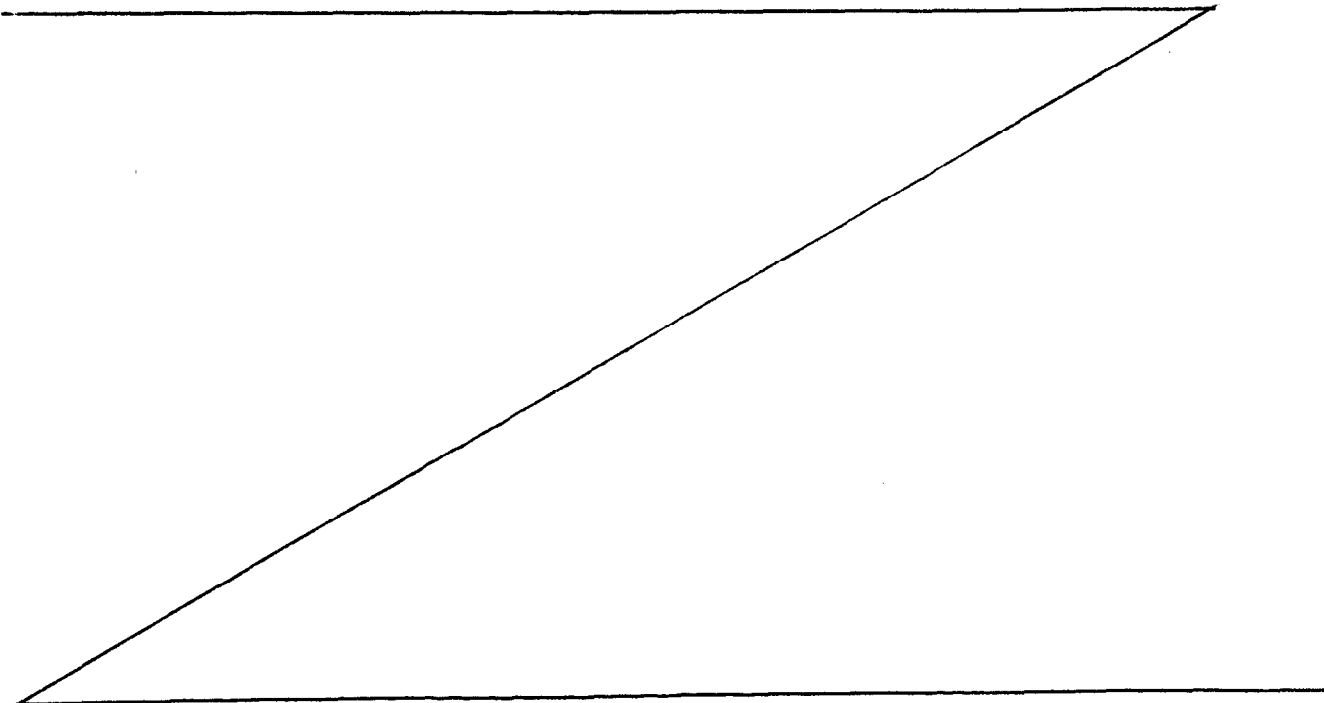
³ Stats. 1983, c. 1045.

⁴ Stats. 1983, c. 1046.

We find that the Regional Board's actions adequately address the items of relief requested by CBE in its petition, with one possible exception. CBE has requested that the Regional Board send copies of its monthly progress reports to the State Board. We find that this request is appropriate, and we will so order.

III. CONCLUSIONS

We conclude that, although the Regional Board was initially somewhat slow in responding to CBE's concerns, the Regional Board's efforts over the past several months have demonstrated a willingness and ability to take affirmative steps in addressing the issue of underground tanks. We are satisfied with the Regional Board's progress in the underground tank program. We, therefore, conclude, that the relief requested by CBE is unnecessary and should be denied.



IV. ORDER

IT IS HEREBY ORDERED that the Regional Board expeditiously carry out its approved work plan and coordinate this effort with the implementation of recent legislation regulating underground tanks.

IT IS FURTHER ORDERED that the Regional Board shall submit its monthly progress reports on the underground tank investigation to the State Board.

IT IS FURTHER ORDERED that, for the reasons stated above, the petition of CBE is otherwise denied.

DATED: January 19, 1984

/s/ Carole A. Onorato

Carole A. Onorato, Chairwoman

/s/ Warren D. Noteware

Warren D. Noteware, Vice-Chairman

/s/ F. K. Aljibury

F. K. Aljibury, Member

/s/ Kenneth W. Willis

Kenneth W. Willis, Member