

1 **MEDINA SETO LAW GROUP**  
ROWENA C. SETO, SBN 235103  
2 E-Mail: Seto@MedinaSetoLaw.com  
4 Embarcadero Center, 14th Floor  
3 San Francisco, California 94111  
Telephone: 415.851.9887  
4 Facsimile: 415.851.9882

5 Attorneys for Petitioner  
FRANCES LEE DBA FRENCH CLEANERS

6 STATE WATER RESOURCES CONTROL BOARD

7 STATE OF CALIFORNIA

9 In the Matter of  
10 FRANCES LEE DBA FRENCH CLEANERS,  
11 Petitioner,

12 For Review of Order No. R5-2024-0816 by  
13 Central Valley Regional Water Quality  
14 Control Board for Investigation and  
15 Submission of Technical Reports

PETITION NO.

**PETITION FOR REVIEW AND  
REQUEST FOR STAY**

(Wat. Code, § 13320; Cal. Code Regs., tit. 23,  
§§ 2050 *et seq.*)

[Submitted Concurrently with Request for Stay  
of Regional Board Order]

16  
17 Pursuant to California Water Code section 13320 and Title 23 of the California Code of  
18 Regulations sections 2050 *et seq.*, Petitioner FRANCES LEE doing business as FRENCH  
19 CLEANERS, a sole proprietorship, hereby respectfully petitions the State Water Resources  
20 Control Board (“State Water Board”) for review of Water Code section 13267 Order No. R5-  
21 2024-0816 for Investigation and Submission of Technical Reports (the “Order”) issued by the  
22 Central Valley Regional Water Quality Control Board (“Central Valley Water Board” or the  
23 “Board”) on November 26, 2024. Ms. Lee also respectfully requests a stay of the Order pending  
24 review of this petition by the State Water Board pursuant to Water Code section 13321 and Title  
25 23 of the California Code of Regulations section 2053.

26 As set forth below, the Order reneges on the Central Valley Water Board’s prior  
27 assurances and representations to Ms. Lee, as well as its own investigative findings. In 1996, Ms.  
28 Lee undertook expensive, affirmative actions to ensure that PCE would never be discharged from

MEDINA  
SETO  
LAW  
GROUP

1 the subject site again. On August 30, 2022, the Central Valley Water Board confirmed, in writing  
2 to Ms. Lee’s counsel, that “*Ms. Lee is not personally responsible for the discharge of PCE.*”  
3 (See **Exhibit C.**) On August 14, 2024, it issued a draft amended order, order number R5-2024-  
4 0807, expressly concluding that Ms. Lee (and her DBA) bear no responsibility for the discharge of  
5 PCE at the subject location (the “Prior Order”). After objections from Suspected Dischargers who  
6 do have responsibility for the discharge of PCE, the Board has apparently acquiesced to their  
7 unfounded complaints and seeks to hold Ms. Lee responsible. In doing so, the Board not only  
8 abandons its longtime assurances to not hold Ms. Lee as a Suspected Discharger – an affirmation  
9 made after years of painstaking investigation – but also in essence punishes the one individual  
10 who did everything right and took proactive steps to prevent any future discharge of PCE. This is  
11 contrary to the spirit and intent of the applicable water laws and environmental regulations. Ms.  
12 Lee thus requests a hearing as necessary in this matter and a Stay of the Order until this matter is  
13 resolved.

14 **I. PETITIONER**

15 The name, address, telephone number and e-mail of Petitioner is:

16 Frances Lee DBA French Cleaners  
17 416 West Yosemite Avenue  
18 Manteca, CA 95337  
19 Telephone: (209) 823-5533  
20 E-mail: [franceslee57@gmail.com](mailto:franceslee57@gmail.com)

21 Ms. Lee’s niece, Lilly Tan, has been communicating with the Central Valley Water Board  
22 on her behalf. Ms. Tan’s email address is [lillytan@gmail.com](mailto:lillytan@gmail.com).

23 Petitioner should be contacted through its legal counsel:

24 Rowena C. Seto of Medina Seto Law Group  
25 4 Embarcadero Center, 14th Floor  
26 San Francisco, CA 94111  
27 Telephone: (415) 851-9890  
28 E-mail: [Seto@MedinaSetoLaw.com](mailto:Seto@MedinaSetoLaw.com)

Please note that e-mail is the preferred method for written communications.

**II. THE ACTION BEING PETITIONED**

Ms. Lee is petitioning for review of the Order, attached hereto and marked as **Exhibit A.**

1 Specifically, Ms. Lee objects to her and her DBA’s inclusion as one of the “Suspected  
2 Dischargers” as termed in the Order. (Because a sole proprietorship is not a legal entity separate  
3 from its individual owner, all references to Ms. Lee include her DBA French Cleaners.) Per the  
4 Order, as a Suspected Discharger, Ms. Lee is to retain a professionally registered environmental  
5 consultant and within 60 days of the Order, submit a Site History Report and a work plan. After  
6 the Central Valley Water Board approves the work plan, Ms. Lee must subsequently implement  
7 the work plan, complete certain investigative actions and submit an investigation summary report.  
8 As expressed therein, the projected cost of compliance with the Order is approximately \$40,000.  
9 While Ms. Lee does not dispute the reasonableness of the projected cost, the Order’s directives  
10 suggest that actual costs of compliance will well exceed \$40,000. Ms. Lee frankly does not have  
11 the finances to pay such costs. Ms. Lee is informed that prior attempts by Ms. Lee’s niece to  
12 apply for SCAP funding on her behalf were not successful.

13 **III. DATE OF THE CENTRAL VALLEY WATER BOARD ACTION**

14 The Central Valley Water Board signed the Order on November 26, 2024. This Petition is  
15 therefore timely under Water Code section 13320(a).

16 **IV. STATEMENT OF THE REASONS WHY CENTRAL VALLEY WATER BOARD’S**  
17 **ACTION WAS INAPPROPRIATE AND IMPROPER<sup>1</sup>**

18 **A. The Factual Background as Set Forth in the Order**

19 The pertinent facts and background are set forth in the Order as follows:

20 A dry-cleaning business using the fictitious business name “French  
21 Cleaners,” under various owners, has operated at the Site since at  
22 least 1952. . . . Site records indicate that French Cleaners’ various  
23 owner-operators used PCE for dry-cleaning between approximately  
24 1952 and 2009.

25 (Order at pp. 3-4, ¶ 7.)

26 Frances F. Lee currently owns and operates French Cleaners as a  
27 sole proprietorship. Ms. Lee has owned and operated French  
28 Cleaners since 1996 and used PCE as part of those operations  
between 1996 and 2009. Based on PCE waste manifests dated 1996

<sup>1</sup> This section also incorporates the requirement set forth in Cal. Code Regs, tit. 23, § 2050(a)(7).

1 and 2009, PCE was used in French Cleaners' operations during the  
2 Ms. Lee's ownership and operatorship of the business.

3 (*Id.* at p. 4, ¶ 16.)

4 However, the Order completely omits findings by the Central Valley Water Board  
5 absolving Ms. Lee of liability as stated in its Prior Order:

6 **Frances Lee is not believed to have discharged dry-cleaning**  
7 **waste during her operation of French Cleaners because, during**  
8 **her time of operatorship, she is believed to have used a sealed**  
9 **solvent-based system between 1996 to 2009 and, from 2009**  
10 **onwards, a sealed hydrocarbon-based system. Therefore,**  
11 **Frances Lee is not subject to this Order.**

12 (Prior Order at p. 4, ¶ 9 (emphasis added).) The Central Valley Water Board's August 14, 2024  
13 Prior Order is attached hereto and marked as **Exhibit B.**)

14 [P]rior to the sale of French Cleaners to Frances Lee, Joann Thayer  
15 replaced French Cleaner's leaking solvent-based dry-cleaning  
16 system with a sealed solvent-based system that did not connect to  
17 any sewer or drain.

18 (*Id.* at p. 4, ¶ 9.)

19 **B. The Order Contradicts The Board's 2022 Conclusion That Ms. Lee Is Not A**  
20 **Responsible Party Without Providing Any Evidence of Its New Position**

21 The Prior Order memorialized the Central Valley Water Board's conclusions, reached two  
22 years earlier, that Ms. Lee was not responsible for any PCE discharge. Specifically, on August 30,  
23 2022, the Central Valley Water Board's engineering geologist, Michael DeSmet, emailed Ms.  
24 Lee's counsel confirming after his investigation that she was not personally responsible for any  
25 discharge of PCE at the site. Mr. DeSmet's email stated, in pertinent part:

26 **Ms. Lee is not personally responsible for the discharge of PCE**  
27 **and I will not name her personally as a potentially responsible**  
28 **party. I believe it has been shown that by using a closed system**  
**for the entirety of PCE use and by accounting for over 97% of**  
**the PCE used, Ms. Lee did not discharge PCE.**

29 (Attached **Exhibit C**, at p. 4 (Aug. 30, 2022 email). Ms. Lee rightfully and in good faith relied on  
30 the Board's guarantee expressed in its August 2022 email.

31 As discussed in the emails, the remaining issue as it pertained to Ms. Lee was that the

1 Board still sought to hold French Cleaners, her DBA, responsible. But this position was not of  
2 great concern to Ms. Lee, as it is well-established that there is no legal distinction between an  
3 individual and her DBA. Ms. Lee was confident that once she provided confirmation to the Board  
4 that she operated French Cleaners as a sole proprietorship, surely the Board would not hold her  
5 DBA responsible because to do so would be akin to holding Ms. Lee personally responsible and  
6 therefore unjust given the Board’s own finding that “Ms. Lee is not personally responsible for the  
7 discharge of PCE.” And for some time, this premonition proved to be correct.

8 But strangely now, over two years later, the Order summarily seeks to erase history to  
9 include Ms. Lee as a Suspected Discharger with zero explanation or any evidence for why she is  
10 subject to the Order, especially in light of the Central Valley Water Board’s express finding that  
11 Ms. Lee *did not discharge* any dry-cleaning waste or PCE throughout her time doing business  
12 French Cleaners. There is nothing in the Order that explains why the Board now seeks such a  
13 breathtaking reversal from its August 2022 position, established after its own protracted  
14 investigation.

15 **C. As The Board Confirmed In 2022, Ms. Lee Is Clearly Not A “Suspected**  
16 **Discharger” Under The Law**

17 The Porter-Cologne Water Quality Control Act provides for the nine State Regional Water  
18 Quality Control Boards to protect water quality, as set forth and codified in the Water Code.  
19 Water Code section 13304(a) provides:

20 A person who *has discharged* or *discharges waste* into the waters of  
21 this state in violation of any waste discharge requirement or other  
22 order or prohibition issued by a regional board or the state board, *or*  
23 *who has caused or permitted, causes or permits, or threatens to*  
24 *cause or permit any waste to be discharged* or deposited where it is,  
25 or probably will be, discharged into the waters of the state and  
26 creates, or threatens to create, a condition of pollution or nuisance,  
27 shall, upon order of the regional board, clean up the waste or abate  
28 the effects of the waste. . . .

(Wat. Code, § 13304(a) (emphasis added).)

The Central Valley Water Board issued its Order pursuant to Water Code section 13267:

(b)(1) In conducting an investigation specified in subdivision (a), the regional board may require that *any person who has discharged*,

1 *discharges, or is suspected of having discharged* or discharging, or  
2 who proposes to discharge waste within its region, or any citizen or  
3 domiciliary, or political agency or entity of this state who has  
4 discharged, discharges, or is suspected of having discharged or  
5 discharging, or who proposes to discharge, waste outside of its  
6 region that could affect the quality of waters within its region shall  
7 furnish, under penalty of perjury, technical or monitoring program  
8 reports which the regional board requires.

9 (*Id.* at § 13267(b)(1)) (emphasis added).)

10 **Ms. Lee has always used a sealed system, not connected to any sewer, drain or outlet**  
11 **of any type, for the entire duration of her operation of French Cleaners.** Indeed, when Ms.  
12 Lee purchased French Cleaners from Joann Thayer, the dry-cleaning system at the time of  
13 purchase was a sealed solvent-based system that did not connect to any sewer or drain. Ms. Lee  
14 took it upon herself to upgrade the system in 2009 to a sealed hydrocarbon-based system, at  
15 considerable expense. Uniform hazardous waste manifests confirm that Ms. Lee abided by all  
16 applicable standards and regulations, including duly documenting the generation of and safe and  
17 proper transportation and disposal of waste. The efficacy and safety of the sealed system used by  
18 Ms. Lee, as well as her detailed documentation of the safe off-site transport of waste, was  
19 implicitly acknowledged by the Central Valley Water Board in its Prior Order and August 2022  
20 email. Nonetheless, the Central Valley Water Board now seeks to hold her liable. This is contrary  
21 to the express language of the law, as interpreted and confirmed by California courts.

22 For example, it is “not proper” to name as a discharger or suspected discharger subject to a  
23 Water Board’s action someone “who had no part in the activity which resulted in the discharge of  
24 the waste and whose ownership interest did not cover the time during which that activity was  
25 taking place.” (*United Artists Theatre Circuit, Inc. v. Calif. Regional Water Quality Control Bd.*  
26 (2019) 42 Cal.App.5th 851, 885 (citing *In re Wenwest, Inc.* (Order No. WQ 92-13, Oct. 22, 1992)  
27 1992 Cal. Env. Lexis 19.) The California Court of Appeals recognized that the Board rightly did  
28 not impose liability on a party “because it ‘never owned [the site] during the time the tanks were  
actually leaking.’” (*United Artists Theatre Circuit, supra*, 42 Cal.App.5th at 885 (citing *In re*  
*Wenwest, supra*, 1992 Env. Lexis 19 at p. \*11.)

Importantly, Water Code section 13267 is *not* a strict liability statute. But even applying

1 strict liability principles would not result in Ms. Lee being labeled as a “Suspected Discharger”  
2 subject to the Order. Strict liability does not blindly impose liability on any party, especially and  
3 including those with zero role in discharging waste into groundwater. (See, e.g., *City of Modesto*  
4 *v. Dow Chemical Co.* (2018) 19 Cal.App.5th 130, 158 (noting that even CERCLA’s strict liability  
5 standards “do not negate or supplant the requirement to prove causation.”))

6 Further, it is clear from the Porter-Cologne Act’s legislative history that Ms. Lee should  
7 not be subject to the Order:

8 Indeed, the legislative history of the “causes or permits” language in  
9 a different provision within the Porter-Cologne Act, Water Code  
10 section 13350, supports our conclusion that ***the Legislature did not***  
11 ***intend the act to impose liability on those with no ownership or***  
12 ***control over the property or the discharge, and whose involvement***  
13 ***in a discharge was remote and passive.*** The phrase “causes or  
14 permits” was added to the statute in 1971, in an amendment  
15 providing civil penalties for those who, among other things, caused  
16 or permitted waste or oil to be discharged into the waters of the  
17 state. (Stats. 1971, ch. 668, § 1, p. 1322; see Stats. 1969, ch. 482, §  
18 18, p. 1070.) . . . .

15 Water Code section 13350 was again amended in 1980, to authorize  
16 imposition of civil liabilities on “[a]ny person who, without regard  
17 to intent or negligence, causes or permits” a discharge of hazardous  
18 substances into the waters of the state. (Stats. 1980, ch. 877, § 3, p.  
19 2754.) ***The statute also provided there would be no liability if the***  
20 ***discharge were caused by events beyond the discharger’s control,***  
21 including any “circumstance or event which causes the discharge  
22 despite the exercise of every reasonable precaution to prevent or  
23 mitigate the discharge.” (*Id.* at p. 2755.)

21 (*City of Modesto Redevelopment Agency v. Superior Court (The Dow Chem. Co.)* (2004) 119  
22 Cal.App.4th 28, 43.)

23 Here, Ms. Lee’s involvement in the waste discharge was not even “remote and passive.”  
24 (*Id.* at 31.) Ms. Lee had no involvement in the suspected waste discharge, and even took  
25 affirmative actions to ensure that there would be no further waste discharge under its watch.

26 Holding Ms. Lee liable as a Suspected Discharger is fundamentally unfair and totally unsupported  
27 by – indeed, contrary to – the Central Valley Water Board’s own conclusions reached in August  
28 2022 and as set forth in its Prior Order. (See **Exhibits B** and **C**.)

1           **D.       There is No Legal Distinction Between Ms. Lee and Her Sole Proprietorship**  
2           **and Thus Neither Is a Suspected Discharger**

3           The Central Valley Water Board apparently seeks to hold Ms. Lee responsible as French  
4 Cleaners, her DBA. But under well-established California law, repeatedly confirmed by  
5 California courts, there is no legal distinction between an individual/owner and the DBA/business.

6                   The designation of “DBA” or “doing business as” simply indicates  
7 [that an individual] operates under a fictitious business name. (See  
8 Bus. & Prof. Code, § 17900 et seq. [regulating fictitious business  
9 names].) Use of a fictitious business name does not create a separate  
10 legal entity. As the First District Court of Appeal recently noted,  
11 “[t]he designation [DBA] means “doing business as” but is merely  
12 descriptive of the person or corporation who does business under  
13 some other name. *Doing business under another name does not*  
14 *create an entity distinct from the person operating the business.*’  
15 [Citation.] The business name is a fiction, and so too is any  
16 implication that the business is a legal entity separate from its  
17 owner.”

18 (*Pinkerton’s Inc. v. Superior Court* (49 Cal.App.4th 1342, 1348, citing *Providence Washington*  
19 *Ins. Co. v. Valley Forge Ins. Co.* (1996) 42 Cal.App.4th 1194, 1200 [50 Cal. Rptr. 2d 192], italics  
20 added, quoting *Duval v. Midwest Auto City, Inc.* (D.Neb. 1977) 425 F.Supp.1381, 1387, affd. (8th  
21 Cir. 1978) 578 F.2d 721; see also <https://www.taxes.ca.gov/soleprobus.html> (“A sole  
22 proprietorship is an unincorporated business that is owned by one person. . . . The business has no  
23 existence apart from . . . the owner.”). “[T]here can be no doubt that the DBA and [the individual  
24 owner] are not separate entities.” (*Castillo-Padron v. Suavillo* (2021) 2021 Cal. Super. LEXIS  
25 118922 \*5-\*6, citing *Century Surety Co. v. Polisso* (2006) 139 Cal.App.4th 922, 940 (additional  
26 citations omitted); see also *Ball v. Steadfast-BLK* (2011) 196 Cal.App.4th 694, 701 (holding that  
27 “a sole proprietorship is not a legal entity separate from its individual owner”).)

28           Accordingly, there is no legal distinction between Ms. Lee, the individual, and French  
Cleaners, her DBA. Holding French Cleaners liable as a Suspected Discharger under the Order  
is thus the same exact thing as holding Ms. Lee individually liable – and Central Valley Water  
Board has expressly confirmed that Ms. Lee not only had no role in any of the waste discharge  
at the subject site, she took affirmative actions beginning in 1996 that prevented all future



1 discharges.

2 Therefore, no reasonable basis exists to hold Ms. Lee or her DBA French Cleaners  
3 responsible under the Order. Ms. Lee DBA French Cleaners has been aggrieved by the Central  
4 Valley Water Board’s action because she will be unjustly subject to the Order when she had no  
5 role in the discharge. She is nearing the age of retirement, and she would be forced to suffer  
6 significant costs and serious economic harm, including bearing the costs that should rightly and  
7 fairly be borne by the actual dischargers (as they are so identified and named in the Order).

8 **V. THE MANNER IN WHICH THE PETITIONER HAS BEEN AGGRIEVED**

9 A regional water board must have a “reasonable basis on which to name each responsible  
10 party.” (*In the matter of the Petitioner Exxon Company, U.S.A.*, 1985 WL 20026 at \*6.) A  
11 reasonable basis is established when “credible and reasonable...evidence indicates the named  
12 party has responsibility.” (*Id.*) This standard is consistent with California’s Water Code which  
13 requires “active, affirmative or knowing conduct” in order to hold a party responsible under a  
14 regional board’s order. (*Redevelopment Agency v. BNSF Ry.* (9th Cir. 2011) 643 F. 3d 668, 678  
15 (explaining the standards set forth in Wat. Code, §13304(a)); see also *City of Modesto*  
16 *Redevelopment Agency, supra*, 119 Cal.App.4th 28, 43.)

17 Including Ms. Lee as a suspected discharger could only be done by inexplicably and  
18 unfairly holding her accountable for those who came before her – those parties who used  
19 equipment that leaked badly, with little care to prevent spills or contamination. Ms. Lee had no  
20 involvement – remote, passive or otherwise – in any discharge; she exercised every reasonable  
21 precaution to operate safely and prevent discharge as the law requires and thus she should not be  
22 subject to the Order. (*City of Modesto Redevelopment Agency, supra*, 119 Cal.App.4th 28, 43.)

23 **VI. THE PETITIONER’S REQUESTED STATE WATER BOARD ACTION**

24 Ms. Lee respectfully requests a stay of the Order. The Order provides that the Central  
25 Valley Water Board has been investigating this matter since as early as July 1989. In November  
26 2003, the Central Valley Water Board requested that Ms. Lee, through her DBA French Cleaners,  
27 conduct certain surveys at the site. She dutifully abided by its request. In other words, this  
28 investigation has been ongoing for decades. A stay, in the interests of fairness and justice, to

1 resolve the troubling issues set forth in the Petition, would not cause substantial harm.

2 Further, Ms. Lee respectfully requests that the State Water Board find the Central Valley  
3 Water Board’s naming of Ms. Lee and her DBA as “Suspected Dischargers” in the Order  
4 unsupported by the evidence and the law, or otherwise inappropriate or improper. Ms. Lee further  
5 respectfully requests that the State Water Board require the Central Valley Water Board to rescind  
6 the Order as it applies to Ms. Lee and her DBA French Cleaners.

7 **VII. STATEMENT OF POINTS AND AUTHORITIES IN SUPPORT OF**  
8 **LEGAL ISSUES RAISED IN THIS PETITION**

9 The required statement of points and authorities per Code of Regulations, Title 23, section  
10 2050(a)(7) is included in Section IV, above, of this Petition.

11 **VIII. STATEMENT REGARDING SERVICE OF THE PETITION**  
12 **ON THE REGIONAL WATER BOARD**

13 A copy of this Petition has been served to Patrick Pulupa, Executive Officer of the Central  
14 Valley Water Board, Galvin Kauffman, PG, Senior Engineering Geologist of the Central Valley  
15 Water Board and to all addresses included in the Order’s Addressee List. (See accompanying  
16 Proof of Service.)

17 **IX. CONCLUSION**

18 The Central Valley Water Board’s years-long detailed investigation correctly concluded  
19 that Ms. Lee has no personal responsibility for the PCE discharge, as repeatedly confirmed by the  
20 Board, in writing, on August 30, 2022 via email and on August 14, 2024 in its Prior Order. Ms.  
21 Lee relied on these findings, in good faith and with much relief. Yet the Central Valley Water  
22 Board now seeks, without support, to reverse its prior findings which date back over two years.  
23 This is contrary to the express language of the law, the spirit and intent of California’s regulatory  
24 system, the substantial evidence that the Central Valley Water Board has painstakingly gathered  
25 over many years and its own findings on which Ms. Lee relied. Ms. Lee, in good faith and with  
26 due diligence, abided by prior Water Board requests to conduct thorough testing and sampling of  
27 the site. She has spent years and significant resources on a very limited income and without  
28 public funding doing so, expenditures that have affected her retirement plans.

MEDINA  
SETO  
LAW  
GROUP

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Accordingly, Ms. Lee/French Cleaners respectfully requests grant the relief as set forth in this Petition.

DATED: December 26, 2024

Respectfully submitted,  
MEDINA SETO LAW GROUP



By: \_\_\_\_\_  
Rowena C. Seto  
Attorneys for Petitioner  
FRANCES LEE DBA FRENCH CLEANERS

MEDINA  
SETO  
LAW  
GROUP

# **Exhibit A**



---

## Central Valley Regional Water Quality Control Board

26 November 2024

ADDRESSEES: SEE ATTACHMENT 1

**WATER CODE SECTION 13267 ORDER NO. R5-2024-0816  
FOR INVESTIGATION AND SUBMISSION OF TECHNICAL REPORTS**

**FRENCH CLEANERS,  
416 WEST YOSEMITE AVENUE, MANTECA, SAN JOAQUIN COUNTY  
GEOTRACKER SITE ID NO. T1000005026**

**You are legally required to respond to this Order. Please read it carefully.**

This Order R5-2024-0816 (Order) is issued to French Cleaners, Frances F. Lee, Joann Thayer, James R. and Darline A. Clevenger, and Patrick E. and Betty J. Farrell (collectively, Suspected Dischargers) pursuant to Water Code section 13267. This Order rescinds and replaces Order R5-2024-0807. Section 13267 authorizes the Central Valley Regional Water Quality Control Board (Central Valley Water Board) to require submission of technical reports associated with the investigation of the unauthorized discharge(s) of dry-cleaning solvent to soil and groundwater beneath the real property located at 416 West Yosemite Avenue, Manteca, San Joaquin County, Assessor's Parcel Number 219-312-030-000 (Site). The Site's location is depicted on the map provided as Attachment 2 to this Order.

As further described below, the chlorinated volatile organic compound (CVOC) tetrachloroethene (PCE) has been detected in Site soil vapor samples, offsite groundwater samples, and five City of Manteca water supply wells (Wells 01, 02, 03, 05, and 22) located within 3,000 of the Site. Wells 01, 02, and 03 have been destroyed and Well 05 has been inactive since 2005. Well 22 is active, affected by PCE, and threatened by increasing PCE concentrations. An additional City well (Well 21) is also located within 3,000 feet of the Site, is active, has not been impacted with PCE, but is threatened by the Site PCE release.

PCE is a toxic chemical, which, even in small quantities, can harm human health and safety via consumption or use of untreated groundwater, direct exposure to contaminated soil, and/or through off-gassing (i.e., vapor intrusion) into confined indoor spaces, such as the Site's commercial building and other nearby commercial and residential buildings.

---

MARK BRADFORD, CHAIR | PATRICK PULUPA, ESQ., EXECUTIVE OFFICER

The Suspected Dischargers named in this Order are suspected of being responsible for causing or permitting the ongoing discharge of PCE at and surrounding the Site. Therefore, this Order requires the Suspected Dischargers to:

1. Submit a work plan, for Central Valley Water Board staff (Staff) review and concurrence, that proposes a scope of work to investigate CVOCs in indoor air within the Site's commercial building and in soil gas at and around the Site.
2. Following Staff's concurrence with the work plan, complete the investigative actions proposed in the work plan and submit an investigation summary report.

## **FINDINGS**

### **Summary of Prior Environmental Investigations**

1. In August 2002, PCE was detected in groundwater samples collected in relation to an Underground Storage Tank (UST) release investigation at Rainwater Car Wash (Rainwater), which is located at 420 West Yosemite Avenue, immediately east of the Site. (GeoTracker Case No. T0607700663.) In April 2003, San Joaquin County Environmental Health Department personnel notified the Central Valley Water Board that PCE had been detected up to 2,700 micrograms per liter ( $\mu\text{g/L}$ ) in groundwater during the investigation at Rainwater and appeared to be coming from an offsite source. For reference, the Maximum Contaminant Level (MCL) for PCE is 5  $\mu\text{g/L}$  (Cal. Code Regs., tit. 22, § 64444). PCE and other CVOCs are regularly detected in Rainwater groundwater samples.
2. In July 1989, PCE was detected up to 5.49  $\mu\text{g/L}$  in groundwater samples collected from City of Manteca water supply wells 01, 02, 03, and 05. Well 05 has been inactive since 2005, and contained 1.3  $\mu\text{g/L}$  of PCE during the last sampling in August 2004. Well 22 is impacted by the Site PCE release. Nearby Rainwater Car Wash monitoring wells MW-12B and MW-14 are located approximately 120 feet and 800 feet from the Site, respectively. These two wells are roughly in-line between the Site and Well 22, and both contain PCE. Well 22 previously did not contain PCE until February and June 2024 with PCE concentrations of 0.62 and 0.80  $\mu\text{g/L}$ , respectively. As PCE has over time migrated into progressively more distant Rainwater Car Wash monitoring wells which are in-line between the Site and Well 22, Staff believes that PCE recently detected in Well 22 is a result of the Site release. Staff suspects the Site to be the source of the PCE detected in Site soil and offsite wells because PCE has historically been used as a dry-cleaning solvent, historic dry-cleaners are commonly associated with discharges of PCE that impact or threaten to impact water quality, and there are currently no other known or suspected sources of PCE within 2,000 feet of the Site or within the vicinity of Wells 01, 02, 03, 05, and 22. Pumping from City supply wells in Manteca has influenced the groundwater flow direction and plume migration.

3. In November 2003, Staff requested that Frances Lee, who currently operates the French Cleaners dry-cleaning business at the Site, conduct a soil vapor survey at and around the Site. In July 2004, Advanced GeoEnvironmental, Inc., advanced seven soil borings in five locations and collected five soil vapor samples. PCE was detected in three of the five soil vapor samples at concentrations up to 4.9 µg/L (equivalent to 4,900 micrograms per cubic meter [µg/m<sup>3</sup>]), which significantly exceeds the San Francisco Bay Regional Water Quality Control Board's Subslab/Soil Gas Vapor Intrusion Human Health Commercial/Industrial Cancer Risk Screening Level of 67 µg/m<sup>3</sup>. An exceedance of a screening level indicates that additional evaluation is warranted.
4. In April and July 2005, E<sub>2</sub>C Remediation Inc., on behalf of Frances Lee, submitted work plans for the collection of soil and groundwater samples. These work plans were not implemented.
5. In 2019, Stantec Consulting Services, Inc., on behalf of Frances Lee, submitted a 1 July 2019 *Site Assessment Work Plan (July 2019 Work Plan)* proposing nine tasks to further characterize the extent of impacts at the Site and design an effective remedial strategy, if needed. Tasks 1 through 5 of the *July 2019 Work Plan* proposed the development of a Site History Report and completion of a passive soil gas survey. After the passive soil gas survey, Stantec proposed collecting sub-slab, indoor air, or soil gas samples. In a 29 August 2019 letter, Staff conditionally concurred with the *July 2019 Work Plan*, requesting submission of an additional work plan for the proposed soil gas survey and submission of soil gas survey results prior to collection of soil gas and/or indoor air samples. The requested soil gas sampling work plan has not been submitted and, to Staff's knowledge, such sampling has not been completed.

### **Site Ownership and Operations**

6. San Joaquin County Assessor's records indicate that the Site property is currently owned by Patrick E. and Betty J. Farrell (collectively, the Farrells). Betty J. Farrell inherited ownership of the Site in 1981 (see 11 May 2018 letter to Central Valley Water Board from Paladin Law Group, LLP (Paladin), on behalf the Farrells). Assessor's records indicate that Patrick Farrell assumed some portion of ownership of the Site in 1992. Staff believes that the Site property was previously owned by Betty Farrell's father but does not possess additional details concerning Site ownership prior to 1981.
7. A dry-cleaning business using the fictitious business name "French Cleaners," under various owners, has operated at the Site since at least 1952. The Central Valley Water Board is uncertain as to the form(s) in which the French Cleaners business has been carried out by its respective owners/operators. The business is currently operated as a sole proprietorship by Frances Lee; however, it is not presently clear whether Ms. Lee's predecessors also operated the business as a sole proprietorship or via a different business form (e.g., partnership, corporation, etc.). Site records

indicate that French Cleaners' various owner-operators used PCE for dry-cleaning between approximately 1952 and 2009. The Central Valley Water Board's understanding of French Cleaners' owner-operator history is described in the following findings.

8. From approximately 1955 to 1961, French Cleaners was owned and operated by William P. Alexander. Mr. Alexander is believed to be deceased.
9. From 1961 to 1968, French Cleaners was co-owned and co-operated by Ernest M. and Belulah R. Slife (a.k.a. Belulah R. Anderson). Both are believed to be deceased.
10. From 1969 to 1971, French Cleaners was co-owned and co-operated by Blaine H. Anderson and Belulah R. Anderson (a.k.a. Belulah R. Slife) (collectively, the Andersons). Blaine H. Anderson is believed to be deceased.
11. From 1971 to 1972, French Cleaners was co-owned and co-operated by Valentine G. and Mildred D. Omo. Both are believed to be deceased.
12. From 1972 to 1976, French Cleaners was co-owned and co-operated by the Andersons.
13. In 1976, William E. and Carol A. Slife sold the Site property to Richard M. and Ina L. Meland (collectively, the Melands). The Central Valley Water Board believes that William and Carol Slife inherited the property from Belulah Slife after her death. From 1976 to 1990, French Cleaners was co-owned and co-operated by the Melands. The Melands are believed to be deceased.
14. From 1990 to 1993, James R. and Darline A. Clevenger (collectively, the Clevengers) owned and operated French Cleaners. Based on PCE waste manifests dated May 1990 to July 1993, PCE was used in French Cleaners' operations during the Clevengers' ownership and operatorship of the business.
15. From 1993 to 1996, Joann G. Thayer owned and operated French Cleaners. Ms. Thayer reportedly used the dry-cleaning machines she purchased from the Clevengers for approximately three to six months before she replaced them with a new system. (15 January 2019 telephone interview between Staff and Ms. Thayer.) Ms. Thayer sold French Cleaners to Frances Lee in 1996.
16. Frances F. Lee currently owns and operates French Cleaners as a sole proprietorship. Ms. Lee has owned and operated French Cleaners since 1996 and used PCE as part of those operations between 1996 and 2009. Based on PCE waste manifests dated 1996 and 2009, PCE was used in French Cleaners' operations during the Ms. Lee's ownership and operatorship of the business.
17. Based on available public records, the Central Valley Water Board does not believe that the Farrells have held any ownership or operating control of the French



Cleaners dry-cleaning business. However, the Farrells have leased the Site property to French Cleaners since 1981.

### LEGAL AUTHORITY

18. Water Code section 13267, subdivision (a), provides that “[a] regional board... in connection with any action relating to any plan or requirement authorized by [Water Code division 7] may investigate the quality of any waters of the state within its region.”

19. Water Code section 13267, subdivision (b)(1) further provides that,

In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, . . . waste within its region . . . shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports and shall identify the evidence that supports requiring that person to provide the reports.

20. The State Water Resources Control Board (State Water Board) has held for more than 40 years that,

[D]ischarge refers to any movement of waste from soils to groundwater and from contaminated to uncontaminated groundwater and continues to occur if the waste continues to move through the soils and groundwater and poses a threat of further degradation to groundwater. An actionable discharge, therefore, encompasses not simply the initial episode of contamination, but rather includes the time during which the waste uncontrollably flows or migrates from its source, through the soil, and into and within the groundwater.

*(Tesoro Refining & Marketing Company LLC v. Los Angeles Regional Water Quality Control Board, 42 Cal.App.5th 453, 457 (2019) (Tesoro).)* Thus, the term “discharge” must be read to include not only the initial occurrence of a discharge, but also the passive migration of the contamination into the soil.

21. PCE is a “waste.” (See Wat. Code, § 13050, subd. (d)).

22. The presence of PCE in soil gas and groundwater at and near the Site indicates that PCE has been discharged to the environment and is impacting, and threatening to impact, the quality of the water of the Central Valley region. Extensive Staff knowledge and experience with PCE discharges supports a suspicion that the PCE

present at and near the Site will continue to migrate from contaminated media (i.e., soil, soil gas, and groundwater) into and through uncontaminated media, constituting an ongoing discharge of PCE as described in *Tesoro*.

23. The Central Valley Water Board's Water Quality Control Plan for the Sacramento and San Joaquin River Basins (Basin Plan) designates beneficial uses for groundwater within those basins. The Basin Plan designates the groundwater beneath the Site for municipal and domestic supply (MUN) and provides that the groundwater shall not contain chemical constituents that adversely affect beneficial uses, shall not contain taste- or odor-producing substances in concentrations that cause nuisance or adversely affect beneficial uses, and shall be maintained free of toxic substances. As described in an earlier Finding, the MCL for PCE in water designated MUN as 5 µg/L. The presence of PCE in groundwater in excess of the MCL constitutes a condition of pollution (see Wat. Code, § 13050, subd. (l)) because the beneficial uses of that water are impaired. Additionally, the presence of PCE in groundwater, soil, and soil vapor at and near the Site poses a threat to human health and safety due to the risk of exposure from direct contact with soil and/or vapor intrusion into buildings overlying the impacted area.
24. Based on numerous publicly available documents, as well as extensive Staff knowledge and experience, the Central Valley Water Board is aware that PCE discharges to the environment are often associated with historic dry-cleaning practices. In such cases, PCE is often found to have discharged to the environment via leaks or spills from machinery, storage containers, and/or sanitary sewers, and as a result of resupply operations and solvent and/or filter storage or disposal practices. Furthermore, it is well documented that seemingly insubstantial leaks from dry-cleaning equipment can cause significant discharges if they are not detected and abated quickly.
25. Based on the facts described in the preceding Findings, French Cleaners' past dry-cleaning operations are suspected to be the source of the past and ongoing PCE discharge(s) at the Site. The Central Valley Water Board has not identified any other potential sources of the PCE detected in Site media.
26. Based upon the facts described above, the Central Valley Water Board suspects that the Suspected Dischargers subject to this Order have discharged PCE at and from the Site. In particular:
  - a. As owners of the Site, the Farrells had, and continue to have, the ability to control conditions therein, including past and ongoing discharges of PCE. The Central Valley Water Board suspects that the Farrells have discharged, and continue to discharge, PCE from contaminated media on their property into and through uncontaminated media at, beneath, and surrounding their property. The Board suspects that these past and ongoing discharges are, in part, the result of the Farrells' inaction to control, abate, or clean up PCE known to be present in media on their property.

- b. As owners and operators of the French Cleaner's dry-cleaning business during time periods in which PCE is known to have been used in the business's operations, the Clevengers, Joann G. Thayer, and Frances F. Lee are each suspected to have discharged PCE at and from the Site.
27. The investigations and reporting required under this Order are reasonably necessary to begin to ascertain the magnitude and extent of soil, soil vapor, and groundwater contamination at the Site, to assess actual and threatened impacts to water quality, and to determine the need for additional investigation, cleanup, abatement, and/or remediation to mitigate potential current risks to human health via vapor intrusion to indoor air, direct contact with soil, and ingestion of impacted groundwater. Staff anticipates that the cost of compliance with this Order will be approximately \$40,000. The burden, including all associated costs of compliance with this Order, is reasonable in relation to the need for the required reports and the benefits to be obtained thereby.
28. In issuing this Order, the Executive Officer is acting pursuant to the authority delegated under Water Code section 13223.
29. On 18 March 2024, the Central Valley Water Board issued Water Code section 13267 Order No. R5-2024-0807, requiring the Farrells, French Cleaners, Joann G. Thayer, and the Clevengers to investigate the suspected discharge of PCE at the Site. This Order rescinds and replaces Order No. R5-2024-0807.

### REQUIRED ACTIONS

**IT IS HEREBY ORDERED** that, pursuant to Water Code section 13267, Order No. R5-2024-0807 is rescinded and replaced and the Suspected Dischargers shall submit technical reports in accordance with the following provisions:

1. **Within 60 days of the date of this Order**, retain the services of a professionally registered environmental consultant and submit a work plan for a scope of work to investigate CVOCs in indoor air within the Site's commercial building and in soil gas at and around the Site.

Upon receipt, Staff will review for concurrence with the submissions. If Staff determines that any item is incomplete or otherwise unsatisfactory, the Suspected Dischargers shall promptly correct any such deficiency(s) and resubmit the corrected item(s). Failure to do so shall constitute a violation of this Order.

2. **Within 90 days of Staff's concurrence with the work plan**, implement the work plan, complete the proposed investigation actions, and **submit an investigation summary report** that includes, but is not limited to:
  - a. Map(s) of sample locations.

- b. Descriptions of sampling methods and procedures.
- c. Evaluation and discussion of sample analytical results, including a vapor intrusion Human Health Risk Assessment of the Site and surrounding properties.
- d. Conclusions based on the results of sample and risk analyses.
- e. Recommendations for additional Site investigation(s) and/or remediation of soil, soil vapor, and/or groundwater based on the conclusions derived from sample and risk assessment data.

### **REPORTING REQUIREMENTS**

The following provisions apply to all submissions required by this Order:

1. All documents shall be submitted electronically to the State Water Board's GeoTracker database at <https://geotracker.waterboards.ca.gov>, in accordance with California Code of Regulations, title 23, division 3, chapter 30, and in accordance with all GeoTracker standards and procedures, as specified on the State Water Board's website at [https://www.waterboards.ca.gov/ust/electronic\\_submittal/](https://www.waterboards.ca.gov/ust/electronic_submittal/).
2. All documents shall be prepared by, or under the supervision of, a registered professional engineer or geologist and must be signed and stamped by the registered professional (see Bus. & Prof. Code, §§ 6735, 7832, and 7835.1).
3. All documents submitted to the Central Valley Water Board shall include the following statement and be signed by the Suspected Discharger(s) or its agent:

I certify under penalty of law that this document, including all attachments and supplemental information, were prepared under my direction and supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

### **ENFORCEMENT**

Failure to comply with the provisions of this Order in conformity with the schedule set forth above is a misdemeanor and may result in the assessment of administrative civil liabilities (i.e., fines) of up to \$5,000 per violation, per day, depending on the violation, pursuant to Water Code section 13268. The Central Valley Water Board further reserves the right to take any additional enforcement actions authorized by law.

### ADMINISTRATIVE REVIEW

Any person aggrieved by requirements set forth in this Order issued by the Central Valley Water Board may petition the State Water Board to review the requirements set forth in this Order in accordance with Water Code section 13320 and California Code of Regulations, title 23, section 2050 et seq. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, in which case the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the laws and regulations applicable to filing petitions will be provided upon request or may be found on the Internet at:

[https://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality](https://www.waterboards.ca.gov/public_notices/petitions/water_quality).

If you have any questions about this Order, please contact Alan Buehler at (916) 464-4615, or at [alan.buehler@waterboards.ca.gov](mailto:alan.buehler@waterboards.ca.gov).

This Order is effective upon the date of signature.

---

For PATRICK PULUPA  
Executive Officer

Attachments:

1. Addressee List
2. Site Location Map

Attachment 1 – Addressee List

**ADDRESSEE**

**CERTIFIED MAIL**

Frances Lee DBA French Cleaners  
c/o Rowena C. Seto  
Medina Seto Law Group  
4 Embarcadero Center, 14th Flr.  
San Francisco, CA 94111

9589 0710 5270 0621 2995 07

Joann G. Thayer  
2111 Eastview Avenue  
Jefferson City, TN 37760

9589 0710 5270 0621 2995 14

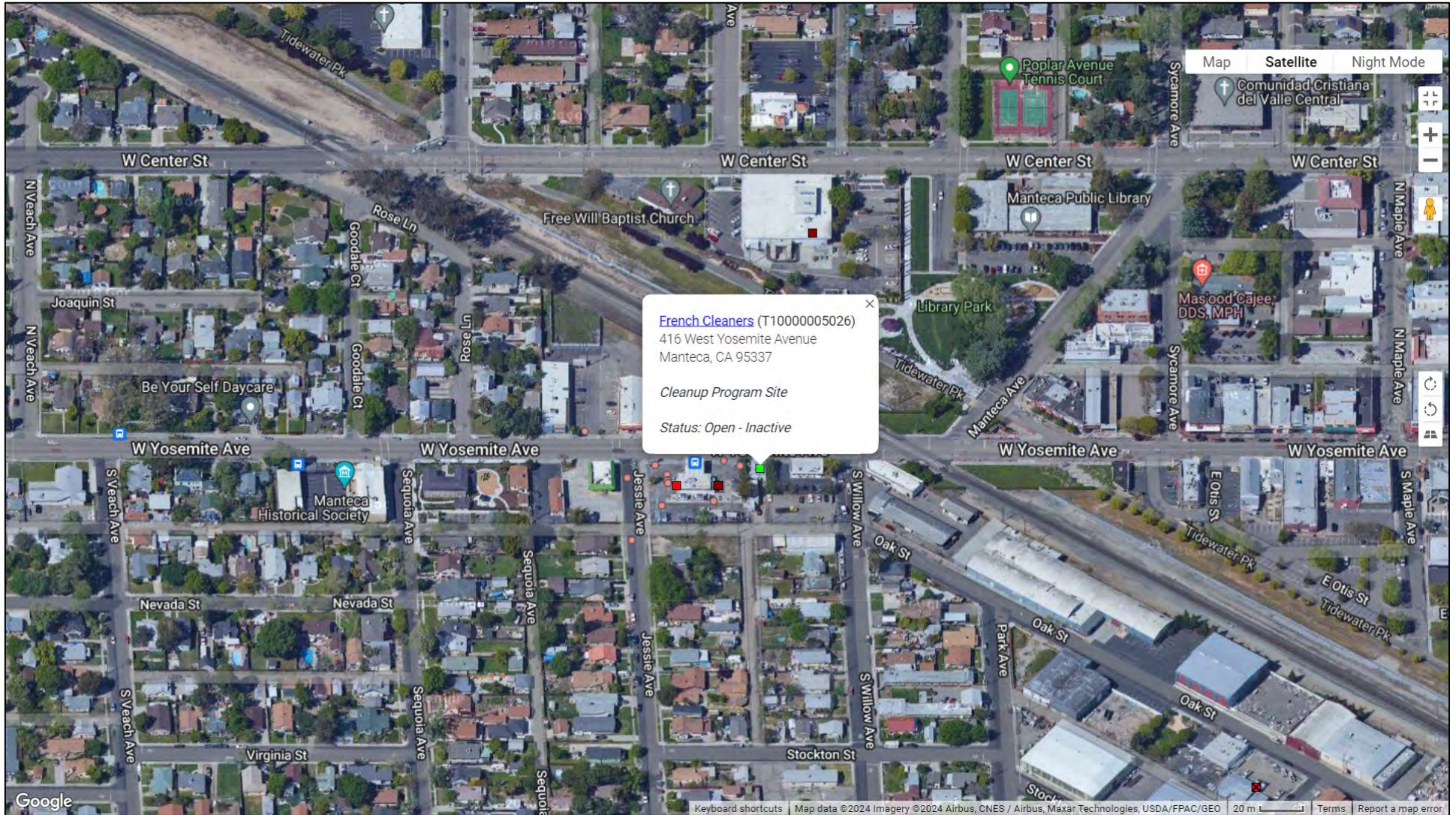
James R. and Darline A. Clevenger  
c/o Hartman King PC  
2150 River Plaza Drive, Suite 320  
Sacramento, CA 95833

9589 0710 5270 0621 2995 21

Patrick E. Farrell  
c/o Zachary Walton  
SSL Law Firm  
575 Montgomery St., Ste. 620  
San Francisco, CA 94111

9589 0710 5270 0621 2995 45

Attachment 2: Site Location Map



# **Exhibit B**





---

## Central Valley Regional Water Quality Control Board

14 August 2024

ADDRESSEES: SEE ATTACHMENT 1

**DRAFT**

**AMENDED WATER CODE SECTION 13267 ORDER NO. R5-2024-0807  
FOR INVESTIGATION AND SUBMISSION OF TECHNICAL REPORTS**

**FRENCH CLEANERS,  
416 WEST YOSEMITE AVENUE, MANTECA, SAN JOAQUIN COUNTY  
GEOTRACKER SITE ID NO. T10000005026**

**You are legally required to respond to this Order. Please read it carefully.**

This Order R5-2024-0807 (Order) is issued to Patrick E. and Betty J. Farrell, **French Cleaners**, Joann G. Thayer, and James R. and Darline A. Clevenger (collectively, Suspected Dischargers) pursuant to Water Code section 13267, which authorizes the Central Valley Regional Water Quality Control Board (Central Valley Water Board) to require submission of technical reports associated with the investigation of the unauthorized discharge(s) of dry-cleaning solvent to soil and groundwater beneath the real property located at 416 West Yosemite Avenue, Manteca, San Joaquin County, Assessor's Parcel Number 219-312-030-000 (Site). The Site's location is depicted on the map provided as Attachment 2 to this Order.

As further described below, the chlorinated volatile organic compound (CVOC) tetrachloroethene (PCE) has been detected in Site soil vapor samples, offsite groundwater samples, and four City of Manteca water supply wells (Wells 01, 02, 03, and 05) located over 1,250 feet from the Site. Two additional City of Manteca water supply wells (Wells No. 21 and No. 22) are currently in operation within 3,000 feet of the Site and may be threatened by PCE discharged at, and continuing to discharge from, the Site. The Site is suspected to be the source of the PCE detected in Site soil and offsite wells because PCE has historically been used as a dry-cleaning solvent, historic dry-cleaners are commonly associated with discharges of PCE that impact, or threaten to impact water quality, and there are currently no other known or suspected sources of PCE within 2,000 feet of the Site or within the vicinity of Wells No. 21 and No. 22.

PCE is a toxic chemical, which, even in small quantities, can harm human health and safety via consumption or use of untreated groundwater, direct exposure to contaminated soil, and/or through off-gassing (i.e., vapor intrusion) into confined indoor

---

MARK BRADFORD, CHAIR | PATRICK PULUPA, ESQ., EXECUTIVE OFFICER

spaces, such as the Site's commercial building and other nearby commercial and residential buildings.

The Suspected Dischargers named in this Order are suspected of being responsible for causing or permitting the ongoing discharge of PCE at and surrounding the Site.

Therefore, this Order requires the Suspected Dischargers to:

1. Submit a Site History Report and a work plan, for Central Valley Water Board staff (Staff) review and concurrence, that proposes a scope of work to investigate CVOCs in indoor air within the Site's commercial building and in soil gas at and around the Site.
2. Following Staff's concurrence with the work plan, complete the investigative actions proposed in the work plan and submit an investigation summary report.

## **FINDINGS**

### **Summary of Prior Environmental Investigations**

1. In August 2002, PCE was detected in groundwater samples collected in relation to an Underground Storage Tank (UST) release investigation at Rainwater Car Wash (Rainwater), which is located at 420 West Yosemite Avenue, immediately east of the Site. (GeoTracker Case No. T0607700663.) In April 2003, San Joaquin County Environmental Health Department personnel notified the Central Valley Water Board that PCE had been detected up to 2,700 micrograms per liter ( $\mu\text{g/L}$ ) in groundwater during the investigation at Rainwater and appeared to be coming from an offsite source. For reference, the Maximum Contaminant Level (MCL) for PCE is 5  $\mu\text{g/L}$  (Cal. Code Regs., tit. 22, § 64444). PCE and other CVOCs were regularly detected in Rainwater groundwater samples until groundwater sampling and reporting at that property stalled, around April 2020.
2. In July 1989 PCE was detected up to 5.49  $\mu\text{g/L}$  in groundwater samples collected from City of Manteca water supply wells 1, 2, 3, and 5. Wells 1, 2, and 3 were located approximately 1,800 feet northeast of the Site but have been destroyed. Well 5 is located approximately 1,000 feet south of the Site and is currently inactive. PCE was last detected in Well 5 at 1.3  $\mu\text{g/L}$  in August 2004.
3. In November 2003, Staff requested that Frances Lee, who operates the French Cleaners dry-cleaning business at the Site, conduct a soil vapor survey at and around the Site. In July 2004, Advanced GeoEnvironmental, Inc., advanced seven soil borings in five locations and collected five soil vapor samples. PCE was detected in three of the five soil vapor samples at concentrations up to 4.9  $\mu\text{g/L}$  (equivalent to 4,900 micrograms per cubic meter [ $\mu\text{g/m}^3$ ]), which significantly exceeds the San Francisco Bay Regional Water Quality Control Board's Subslab/Soil Gas Vapor Intrusion Human Health Commercial/Industrial

Cancer Risk Screening Level of  $67 \mu\text{g}/\text{m}^3$ . An exceedance of a screening level indicates that additional evaluation is warranted.

4. In April and July 2005, E2C Remediation, Inc., submitted work plans for the collection of soil and groundwater samples. These work plans were not implemented.
5. Stantec Consulting Services, Inc., on behalf of Frances Lee, submitted a 1 July 2019 *Site Assessment Work Plan* (July 2019 Work Plan) proposing nine tasks to further characterize the extent of impacts at the Site and design an effective remedial strategy, if needed. Tasks 1 through 5 of the Work Plan proposed the development of a Site History Report and completion of a passive soil gas survey. After the passive soil gas survey, Stantec proposed collecting sub-slab, indoor air, or soil gas samples. In a 29 August 2019 letter, Staff conditionally concurred with the Work Plan, requesting submission of an additional work plan for the proposed soil gas survey and submission of soil gas survey results prior to collection of soil gas and/or indoor air samples. The requested soil gas sampling work plan has not been submitted and, to Staff's knowledge, such sampling has not been completed.

#### **Site Ownership and Operations**

6. San Joaquin County Assessor's records indicate that Betty J. Farrell has owned the Site since 1981. A 11 May 2018 letter from Paladin Law Group, LLP (Paladin), on behalf of Patrick E. and Betty J. Farrell (collectively, the Farrells), to the Central Valley Water Board specifies that Betty Farrell inherited the property but does not specify who the property was inherited from. Assessor's records indicate that Patrick Farrell assumed some portion of ownership of the Site in 1992. Additionally, Assessor's records list the current owners of the Site as the Farrells.
7. A dry-cleaning business, "French Cleaners," has operated at the Site since at least 1952. French Cleaners, and the **past** owners and operators thereof, are believed to have used a filter-based, "open" dry-cleaning system potentially connected to sanitary drains in the Site's commercial building until approximately 1996. Based on Staff knowledge and experience with numerous PCE discharges from former dry-cleaners, the Central Valley Water Board is aware that these types of dry-cleaning systems are commonly associated with PCE discharges: PCE is often discharged to the environment via leaks or spills from machinery, storage containers, and/or sanitary sewers, and as a result of resupply operations and solvent and/or filter storage or disposal practices. As further discussed below, a previous owner of French Cleaners has informed Staff that the dry-cleaning equipment used prior to 1996 leaked badly and that little care had been taken during past operations to prevent spills of dry-cleaning fluids. **French Cleaners is currently operated as a sole proprietorship by Frances F. Lee and is not subject to this Order.**

8. Based on available public records, the Farrells do not and have not had any ownership or operating control of French Cleaners. However, the Farrells have leased the Site property to French Cleaners since 1981. It is not clear who leased the property to French Cleaners during its period of operation from 1952 to 1981.
9. Frances F. Lee currently owns and operates French Cleaners. Frances Lee has owned and operated French Cleaners since 1996. Frances Lee is not believed to have discharged dry-cleaning waste during her operation of French Cleaners because, during her time of operatorship, she is believed to have used a sealed solvent-based system between 1996 to 2009 and, from 2009 onwards, a sealed hydrocarbon-based system. Therefore, Frances Lee is not subject to this Order.
10. From 1993 to 1996, Joann G. Thayer owned and operated French Cleaners. Joann Thayer sold French Cleaners to Frances Lee in 1996. In a 12 February 2019 letter from Medina Seto Law Group (Medina), on behalf of Frances Lee, to Paladin, Medina documented that prior to the sale of French Cleaners to Frances Lee, Joann Thayer replaced French Cleaner's leaking solvent-based dry-cleaning system with a sealed solvent-based system that did not connect to any sewer or drain. Medina also reported that Joann Thayer had informed Medina that previous operators of French Cleaners used dry-cleaning equipment that appeared to have leaked badly and with little care being taken to prevent spills. Joann Thayer is suspected of having used the former filter-based, "open" dry-cleaning system. According to a 15 January 2019 telephone interview between Staff and Joann Thayer, Joann reported using the machines purchased from the Clevenger's for three to six months prior to replacing them. Therefore, Joann Thayer is suspected of potentially discharging dry-cleaning waste to soil and groundwater.
11. From 1990 to 1993, James R. Clevenger and Darline A. Clevenger (collectively, the Clevengers) owned and operated French Cleaners. The Clevengers sold French Cleaners to Joann Thayer in 1993.
12. Based on available public records, all former owners and operators of French Cleaners prior to 1990 are deceased. Therefore, they are not subject to this Order.

#### **LEGAL AUTHORITY**

13. Water Code section 13267, subdivision (a) provides that "[a] regional board... in connection with any action relating to any plan or requirement authorized by [Water Code division 7] may investigate the quality of any waters of the state within its region."
14. Water Code section 13267, subdivision (b)(1) further provides that,

In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, . . . waste within its region . . . shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports and shall identify the evidence that supports requiring that person to provide the reports.

15. The State Water Resources Control Board (State Water Board) has held for more than 40 years that,

[D]ischarge refers to any movement of waste from soils to groundwater and from contaminated to uncontaminated groundwater and continues to occur if the waste continues to move through the soils and groundwater and poses a threat of further degradation to groundwater. An actionable discharge, therefore, encompasses not simply the initial episode of contamination, but rather includes the time during which the waste uncontrollably flows or migrates from its source, through the soil, and into and within the groundwater.

*(Tesoro Refining & Marketing Company LLC v. Los Angeles Regional Water Quality Control Board, 42 Cal.App.5th 453, 457 (2019).)* Thus, the term “discharge” must be read to include not only the initial occurrence of a discharge, but also the passive migration of the contamination into the soil.

16. The presence of PCE in soil gas and groundwater at and near the Site indicates that PCE, a “waste” (Wat. Code, § 13050, subd. (d)), has been discharged and is impacting, and threatening to impact, the quality of the water of the Central Valley region. Extensive staff knowledge and experience with PCE discharges supports a suspicion that the PCE present at and near the Site will continue to migrate from contaminated media (i.e., soil, soil gas, groundwater) into and through uncontaminated media, constituting an ongoing discharge of PCE. Based on the facts described in the preceding Findings, **the Suspected Dischargers French Cleaners'** past operations are suspected to be the source of the PCE discharge(s).
17. The Suspected Dischargers subject to this Order are known and/or suspected to have discharged waste at and from the Site. As owners of the Site, the Farrells had, and continue to have, the ability to control conditions therein, including past and ongoing discharges of PCE at and from their property. As owners and operators of a dry-cleaning operation that used an “open” dry-cleaning system, **French Cleaners**, Joann Thayer, and the Clevengers are suspected to have

caused and/or permitted discharge(s) of PCE at and from the Site. Therefore, these Suspected Dischargers are required to perform the investigation and reporting required by this Order.

18. The Central Valley Water Board's Water Quality Control Plan for the Sacramento and San Joaquin River Basins (Basin Plan) designates beneficial uses for groundwater within that region. The Basin Plan designates the groundwater beneath the Site for municipal and domestic supply (MUN) and provides that the groundwater shall not contain chemical constituents that adversely affect beneficial uses, shall not contain taste- or odor-producing substances in concentrations that cause nuisance or adversely affect beneficial uses, and shall be maintained free of toxic substances. As described in an earlier Finding, the MCL for PCE in water designated MUN as 5 µg/L. The presence of PCE in groundwater in excess of the MCL constitutes a condition of pollution (Wat. Code, § 13050, subd. (l)) because the beneficial uses of that water are impaired. Additionally, the presence of PCE in groundwater, soil, and soil vapor at and near the Site poses a threat to human health and safety due to the risk of exposure from direct contact with soil and/or vapor intrusion into buildings overlying the impacted area. Therefore, pursuant to Water Code section 13267, this Order requires the Dischargers to investigate and submit technical reports concerning the scope and extent of soil, soil vapor, and groundwater pollution at, beneath, and near the Site.
19. The investigations and reporting required under this Order are reasonably necessary to begin to ascertain the magnitude and extent of soil, soil vapor, and groundwater contamination at the Site, to assess impacts and threatened impacts to water quality, and to determine the need for additional investigation, cleanup, abatement, and/or remediation to mitigate potential current risks to human health via vapor intrusion to indoor air, direct contact with soil, and ingestion of impacted groundwater. Staff anticipates that the cost of compliance with this Order will be approximately \$40,000. The burden, including all associated costs of compliance with this Order, is reasonable in relation to the need for the required reports and the benefits to be obtained thereby.
20. In issuing this Order, the Executive Officer is acting pursuant to the authority delegated under Water Code section 13223.

### REQUIRED ACTIONS

**IT IS HEREBY ORDERED** that, pursuant to Water Code section 13267, the Suspected Dischargers shall submit technical reports in accordance with the following provisions:

1. **Within 60 days of the date of this Order**, retain the services of a professionally registered environmental consultant and submit:

- a. A Site History Report (SHR), as proposed in the July 2019 Work Plan<sup>1</sup>.
- b. A work plan for a passive soil gas survey, as proposed in the July 2019 Work Plan, and for sub-slab and indoor air sampling, including proposed locations, methods, and procedures.

Upon receipt, Staff will review for concurrence with the submissions. If Staff determine that any item is incomplete or otherwise unsatisfactory, the Suspected Dischargers shall promptly correct any such deficiency(s) and resubmit the corrected item(s). Failure to do so shall constitute a violation of this Order.

2. **Within 90 days of Staff's concurrence with the work plan**, implement the work plan, complete the proposed investigation actions, and **submit an investigation summary report** that includes, but is not limited to:
  - a. Map(s) of sample locations.
  - b. Descriptions of sampling methods and procedures.
  - c. Evaluation and discussion of sample analytical results, including a vapor intrusion Human Health Risk Assessment of the Site and surrounding properties.
  - d. Conclusions based on the results of sample and risk analyses.
  - e. Recommendations for additional Site investigation(s) and/or remediation of soil, soil vapor, and/or groundwater based on the conclusions derived from sample and risk assessment data.

### REPORTING REQUIREMENTS

The following provisions apply to all submissions required by this Order:

1. All documents shall be submitted electronically to the State Water Board's GeoTracker database at <https://geotracker.waterboards.ca.gov>, in accordance with California Code of Regulations, title 23, division 3, chapter 30, and in accordance with all GeoTracker standards and procedures, as specified on the State Water Board's website at [https://www.waterboards.ca.gov/ust/electronic\\_submittal/](https://www.waterboards.ca.gov/ust/electronic_submittal/).
2. All documents shall be prepared by, or under the supervision of, a registered professional engineer or geologist and must be signed and stamped by the registered professional (see Bus. & Prof. Code, §§ 6735, 7832, and 7835.1).

---

<sup>1</sup> Stantec, Site Assessment Work Plan, 1 July 2019, [https://geotracker.waterboards.ca.gov/view\\_documents?global\\_id=T10000005026&document\\_id=5979287](https://geotracker.waterboards.ca.gov/view_documents?global_id=T10000005026&document_id=5979287)

3. All documents submitted to the Central Valley Water Board shall include the following statement and be signed by the Suspected Discharger(s) or its agent:

I certify under penalty of law that this document, including all attachments and supplemental information, were prepared under my direction and supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

### **ENFORCEMENT**

Failure to comply with the provisions of this Order in conformity with the schedule set forth above is a misdemeanor and may result in the assessment of administrative civil liabilities (i.e., fines) of up to \$5,000 per violation, per day, depending on the violation, pursuant to Water Code section 13268. The Central Valley Water Board further reserves the right to take any additional enforcement actions authorized by law.

### **ADMINISTRATIVE REVIEW**

Any person aggrieved by requirements set forth in this Order issued by the Central Valley Water Board may petition the State Water Board to review the requirements set forth in this Order in accordance with Water Code section 13320 and California Code of Regulations, title 23, section 2050 et seq. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, in which case the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the laws and regulations applicable to filing petitions will be provided upon request or may be found on the Internet at:

[https://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality](https://www.waterboards.ca.gov/public_notices/petitions/water_quality).



If you have any questions about this Order, please contact Michael DeSmet at (916) 464-4830, or at [michael.desmet@waterboards.ca.gov](mailto:michael.desmet@waterboards.ca.gov).

This Order is effective upon the date of signature.

---

~~For~~ PATRICK PULUPA  
Executive Officer

Attachments:

1. Addressee List
2. Site Location Map

cc: Lilly Tan, on behalf of Frances Lee (email)  
Chani Hutto, State Water Resources Control Board, Division of Financial Assistance (email)

Attachment 1 – Addressee List

Patrick E. ~~and Betty J~~ Farrell  
542 Glen Alto Drive  
Los Altos, CA 94024

CERTIFIED MAIL: ~~XXXX-XXXX-XXXX-XXXX-XXXX~~

French Cleaners  
416 West Yosemite Avenue  
Manteca, CA 95337

CERTIFIED MAIL: ~~XXXX-XXXX-XXXX-XXXX-XXXX~~

Joann G. Thayer  
~~6125 Yucca Drive~~ 2111 Eastview Avenue  
~~Douglasville, GA 30134~~ Jefferson City, TN 37760

CERTIFIED MAIL: ~~XXXX-XXXX-XXXX-XXXX-XXXX~~

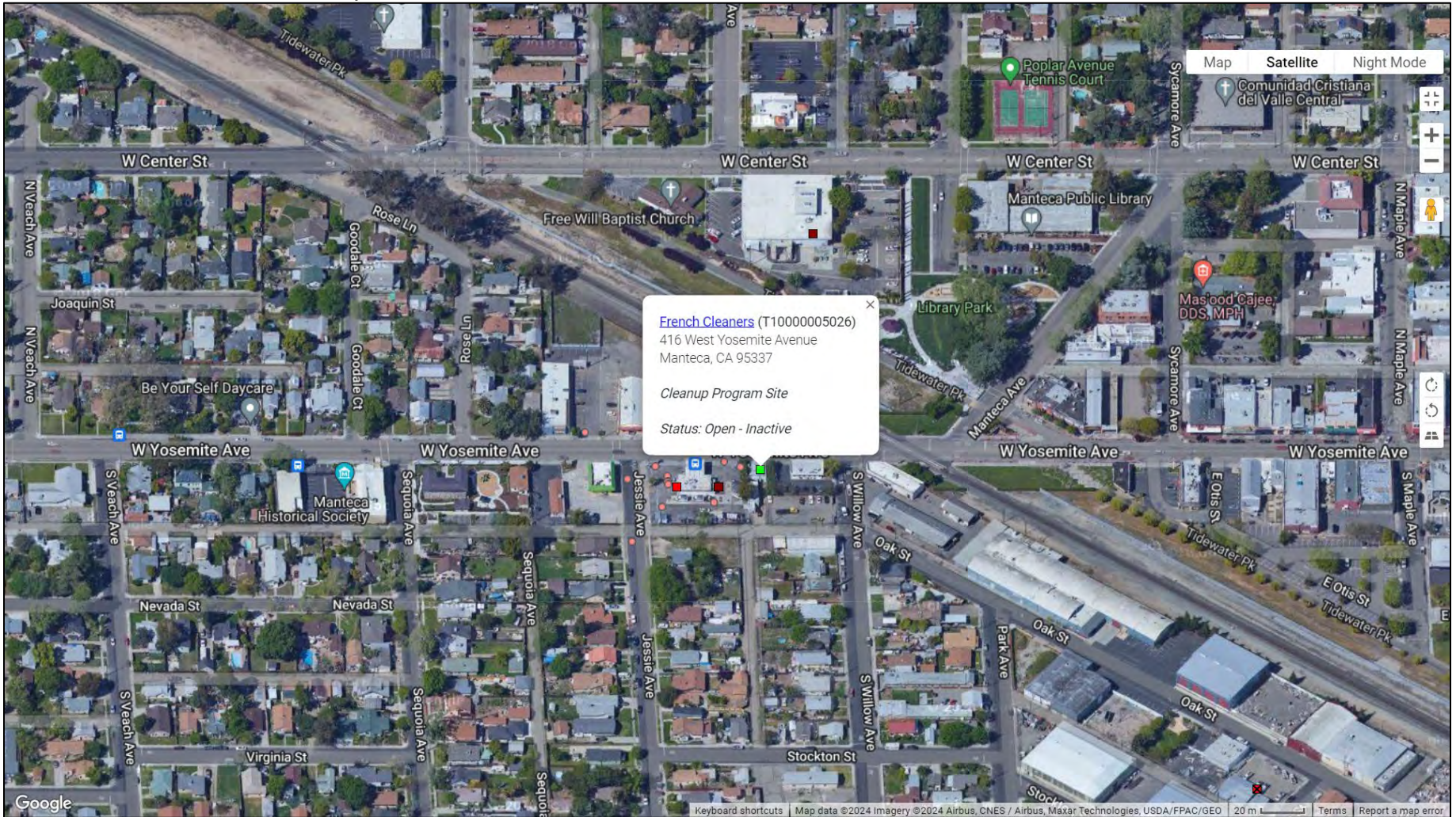
James R. and Darline A. Clevenger  
c/o Hartman King PC  
2150 River Plaza Drive, Suite 320  
Sacramento, CA 95833  
~~10401 Lions Path~~  
~~Lone Tree, CO 80124~~

CERTIFIED MAIL: ~~XXXX-XXXX-XXXX-XXXX-XXXX~~

~~James R. and Darline A. Clevenger~~  
~~P.O. BOX 5366~~  
~~Stockton, CA 95205~~

CERTIFIED MAIL: ~~7017-1070-0000-8876-6947~~

Attachment 2: Site Location Map



# **Exhibit C**

## Rowena Seto

---

**From:** DeSmet, Michael@Waterboards <Michael.DeSmet@Waterboards.ca.gov>  
**Sent:** Tuesday, October 11, 2022 1:41 PM  
**To:** Moskal, Christopher B.@Waterboards; Rowena Seto  
**Cc:** Kevin Cifarelli; Lilly Tan; franceslee57@gmail.com  
**Subject:** RE: French Cleaners (GeoTracker ID #T10000005026) - 416 West Yosemite Ave, Manteca  
**Attachments:** 1996.03.25 - French Cleaners Sales Agreement.pdf

Chris,

My apologies, the sales agreement between Ms. Lee and the previous owner was already provided. It is attached.

Regards,

Michael DeSmet, PG  
Engineering Geologist - UST Enforcement Unit  
Central Valley Regional Water Quality Control Board  
11020 Sun Center Drive, Suite 200  
Rancho Cordova, CA 95670-6114  
Office: 916.464.4830  
[Michael.DeSmet@waterboards.ca.gov](mailto:Michael.DeSmet@waterboards.ca.gov)



---

**From:** Moskal, Christopher B.@Waterboards <Christopher.Moskal@Waterboards.ca.gov>  
**Sent:** Tuesday, October 11, 2022 10:34 AM  
**To:** DeSmet, Michael@Waterboards <Michael.DeSmet@Waterboards.ca.gov>; Rowena Seto <seto@medinasetolaw.com>  
**Cc:** Kevin Cifarelli <cifarelli@medinasetolaw.com>; Lilly Tan <lillytan@gmail.com>; franceslee57@gmail.com  
**Subject:** Re: French Cleaners (GeoTracker ID #T10000005026) - 416 West Yosemite Ave, Manteca

Rowena,

Good morning. I serve as counsel to the Central Valley Water Board.

As I understand this matter, your client, Ms. Lee, purchased a pre-existing business, French Cleaners, in 1996. Prior to your client's ownership of the business, French Cleaners' operations are suspected to have caused a discharge(s) of PCE, which is impacting or threatening to impact groundwater at and beneath the business property. The Central Valley Water Board does not currently believe that your client was personally responsible for causing or permitting the discharge(s) of PCE; however, as current owner of French Cleaners,

your client is the party responsible for managing her business's assets and addressing her business's outstanding environmental liabilities, even if those liabilities arose prior to the time she purchased the business. The extent of your client's *personal* liability for the liabilities of her business depend upon the business form (i.e., sole proprietorship, partnership, limited liability company, corporation, etc.), which is currently unknown to Board staff.

It would be helpful if you could submit a copy of your client's purchase agreement for the business, as well as any other documentation concerning the ownership history of French Cleaners.

Please let me know if you have questions or would like to discuss further. I may have some time this week for a call, but it may be more expedient to exchange emails.

Best,

Chris Moskal  
Attorney  
Office of Chief Counsel  
State Water Resources Control Board

---

**From:** DeSmet, Michael@Waterboards <[Michael.DeSmet@Waterboards.ca.gov](mailto:Michael.DeSmet@Waterboards.ca.gov)>  
**Sent:** Monday, October 10, 2022 1:42 PM  
**To:** Rowena Seto <[seto@medinasetolaw.com](mailto:seto@medinasetolaw.com)>; Moskal, Christopher [B.@Waterboards](mailto:B.@Waterboards) <[Christopher.Moskal@Waterboards.ca.gov](mailto:Christopher.Moskal@Waterboards.ca.gov)>  
**Cc:** Kevin Cifarelli <[cifarelli@medinasetolaw.com](mailto:cifarelli@medinasetolaw.com)>; Lilly Tan <[lillytan@gmail.com](mailto:lillytan@gmail.com)>; [franceslee57@gmail.com](mailto:franceslee57@gmail.com) <[franceslee57@gmail.com](mailto:franceslee57@gmail.com)>  
**Subject:** RE: French Cleaners (GeoTracker ID #T10000005026) - 416 West Yosemite Ave, Manteca

Hello Rowena,

Thank you for your response below. I have included Chris Moskal, counsel for the Water Boards, on this email. After Chris responds we can set up a meeting, if needed. Thank you for your continued attention to this case.

Regards,

Michael DeSmet, PG  
Engineering Geologist - UST Enforcement Unit  
Central Valley Regional Water Quality Control Board  
11020 Sun Center Drive, Suite 200  
Rancho Cordova, CA 95670-6114  
Office: 916.464.4830  
[Michael.DeSmet@waterboards.ca.gov](mailto:Michael.DeSmet@waterboards.ca.gov)



---

**From:** Rowena Seto <[seto@medinasetolaw.com](mailto:seto@medinasetolaw.com)>  
**Sent:** Friday, October 7, 2022 8:12 AM  
**To:** DeSmet, Michael@Waterboards <[Michael.DeSmet@Waterboards.ca.gov](mailto:Michael.DeSmet@Waterboards.ca.gov)>  
**Cc:** Kevin Cifarelli <[cifarelli@medinasetolaw.com](mailto:cifarelli@medinasetolaw.com)>; Lilly Tan <[lillytan@gmail.com](mailto:lillytan@gmail.com)>; [franceslee57@gmail.com](mailto:franceslee57@gmail.com)  
**Subject:** RE: French Cleaners (GeoTracker ID #T10000005026) - 416 West Yosemite Ave, Manteca

EXTERNAL:

Dear Michael,

I hope this email finds you well. I'm following up on my email below; I see now that you were inadvertently left off as a recipient.

We would like to meet with you and the Water Board's counsel as set forth below. I look forward to hearing from you.

Best,  
Rowena

---

**From:** Rowena Seto  
**Sent:** Friday, September 2, 2022 12:42 AM  
**To:** Lilly Tan <[lillytan@gmail.com](mailto:lillytan@gmail.com)>; [franceslee57@gmail.com](mailto:franceslee57@gmail.com)  
**Cc:** Timothy Kirk <[kirk@medinasetolaw.com](mailto:kirk@medinasetolaw.com)>; Kevin Cifarelli <[cifarelli@medinasetolaw.com](mailto:cifarelli@medinasetolaw.com)>  
**Subject:** RE: French Cleaners (GeoTracker ID #T10000005026) - 416 West Yosemite Ave, Manteca

Dear Michael,

Thank you for your email. We are pleased with and agree with your conclusion that Ms. Lee is not personally responsible for the discharge of PCE. However, I'm puzzled by the contradictory position that she is somehow still responsible as French Cleaners's owner. It has been confirmed that no PCE has been discharged throughout the duration of Ms. Lee's ownership of French Cleaners, as she used a closed system and accounted for over 97% of the PCE used. Respectfully, even from a strict liability standpoint, this does not make sense. Under strict liability principles, a party can be held responsible for the discharge of PCE in its possession, even if it operated under best practices, had stringent safeguards in place and did not intend to discharge PCE (so it did not have any intent to improperly discharge or dispose of waste). But here, the discharge of PCE ended with or before Ms. Lee's ownership of French Cleaners.

Of course, I'm happy to discuss this with you and with the Water Board's counsel. I'd like to take you up on your gracious offer to meet, preferably via Zoom. Please let me know your and your counsel's availability. In the meantime, have a nice holiday weekend.

Best regards,  
Rowena

---

**From:** DeSmet, Michael@Waterboards <[Michael.DeSmet@Waterboards.ca.gov](mailto:Michael.DeSmet@Waterboards.ca.gov)>  
**Sent:** Tuesday, August 30, 2022 1:14 PM  
**To:** Rowena Seto <[seto@medinasetolaw.com](mailto:seto@medinasetolaw.com)>  
**Cc:** Lilly Tan <[lillytan@gmail.com](mailto:lillytan@gmail.com)>; franceslee57@gmail.com; Timothy Kirk <[kirk@medinasetolaw.com](mailto:kirk@medinasetolaw.com)>  
**Subject:** RE: French Cleaners (GeoTracker ID #T10000005026) - 416 West Yosemite Ave, Manteca

Hello Rowena,

I apologize for my delay in getting back to you. Thank you for providing the purchase agreement!

Based on the information you provided, and after speaking with Water Board's counsel, Ms. Lee is not personally responsible for the discharge of PCE and I will not name her personally as a potentially responsible party. I believe it has been shown that by using a closed system for the entirety of PCE use and by accounting for over 97% of the PCE used, Ms. Lee did not discharge PCE. However, Ms. Lee has a responsibility for the French Cleaner's business entity as the business point of contact and is required to address French Cleaners liability. French Cleaners (as the business entity) is still a responsible discharger.

Ms. Lee can use the purchase contract with the previous owner to recover costs for that liability, but the purchase agreement does not relieve Ms. Lee of her responsibility for French Cleaners as the owner.

I hope this makes sense. If you would like further clarification, I am happy to set up a meeting for the group to discuss further with counsel for the Water Board. Please let me know if there are any outstanding questions or issues. I appreciate everyone's attention to the case.

Regards,

Michael DeSmet, PG  
Engineering Geologist - UST Enforcement Unit  
Central Valley Regional Water Quality Control Board  
11020 Sun Center Drive, Suite 200  
Rancho Cordova, CA 95670-6114  
Office: 916.464.4830  
[Michael.DeSmet@waterboards.ca.gov](mailto:Michael.DeSmet@waterboards.ca.gov)



---

**From:** Rowena Seto <[seto@medinasetolaw.com](mailto:seto@medinasetolaw.com)>  
**Sent:** Wednesday, August 17, 2022 2:45 PM  
**To:** DeSmet, Michael@Waterboards <[Michael.DeSmet@Waterboards.ca.gov](mailto:Michael.DeSmet@Waterboards.ca.gov)>  
**Cc:** Lilly Tan <[lillytan@gmail.com](mailto:lillytan@gmail.com)>; franceslee57@gmail.com; Timothy Kirk <[kirk@medinasetolaw.com](mailto:kirk@medinasetolaw.com)>  
**Subject:** RE: French Cleaners (GeoTracker ID #T10000005026) - 416 West Yosemite Ave, Manteca



Dear Michael,

Thank you for the reminder and I apologize for the delay. This has been on my to-do list but I've been slammed with litigation deadlines.

Attached please find the purchase agreement. Of note is the indemnity provision at Paragraph 7:

7. Except as otherwise expressly provided in this contract, Seller shall indemnify and hold Buyer and the property of Buyer, including said business and the assets of said business, free and harmless from any and all claims, losses, damages, injuries, and liabilities arising from or on account of Seller's operation of said business or Seller's ownership of any assets of said business that are subject to this contract or Seller's ownership or occupation of said business.

In light of the indemnification provision, and given the fact that Ms. Lee has always used a sealed system (put into place by the seller/her predecessor Joanna Thayer) and the SafetyKleen records confirm that all the PCE was accounted for and did not contaminate the surrounding property, I trust that Ms. Lee will not be deemed responsible by the Water Board. If you or the Board have concluded differently, I would appreciate the opportunity to discuss this position with you.

Sincerely,  
Rowena



**Rowena C. Seto, Esq.**  
Medina Seto Law Group  
4 Embarcadero Center, Suite 1400  
San Francisco, CA 94111  
Main: (415) 851-9887  
Direct: (415) 851-9890  
Facsimile: (415) 851-9882  
Toll Free: (877) 217-3810  
[www.MedinaSetoLaw.com](http://www.MedinaSetoLaw.com)

**\*Please note that all members of our law firm are working from home due to the ongoing COVID-19 pandemic. Accordingly, please send all documents by e-mail or facsimile until further notice. All documents sent to our office by mail, UPS, FedEx or messenger will encounter significant delays in processing and distribution to its intended recipient.\***

This e-mail message is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution of this e-mail message is prohibited. If you are not the intended recipient, please destroy all paper and electronic copies of this message and notify the sender.

---

**From:** DeSmet, Michael@Waterboards <[Michael.DeSmet@Waterboards.ca.gov](mailto:Michael.DeSmet@Waterboards.ca.gov)>  
**Sent:** Wednesday, August 17, 2022 4:46 PM  
**To:** Rowena Seto <[seto@medinasetolaw.com](mailto:seto@medinasetolaw.com)>  
**Cc:** Lilly Tan <[lillytan@gmail.com](mailto:lillytan@gmail.com)>; [franceslee57@gmail.com](mailto:franceslee57@gmail.com); Timothy Kirk <[kirk@medinasetolaw.com](mailto:kirk@medinasetolaw.com)>  
**Subject:** RE: French Cleaners (GeoTracker ID #T10000005026) - 416 West Yosemite Ave, Manteca

Hello Rowena,

I am checking in on the business purchase agreement. If you can send that to me before the end of the week it would be appreciated. I am planning to send the Responsible Party memo I have drafted to Central Valley and State Water Board management review this Friday. Thank you for your continued attention to this case.

Regards,

Michael DeSmet, PG  
Engineering Geologist - UST Enforcement Unit  
Central Valley Regional Water Quality Control Board  
11020 Sun Center Drive, Suite 200  
Rancho Cordova, CA 95670-6114  
Office: 916.464.4830  
[Michael.DeSmet@waterboards.ca.gov](mailto:Michael.DeSmet@waterboards.ca.gov)



---

**From:** Rowena Seto <[seto@medinasetolaw.com](mailto:seto@medinasetolaw.com)>  
**Sent:** Friday, August 5, 2022 2:10 PM  
**To:** DeSmet, Michael@Waterboards <[Michael.DeSmet@Waterboards.ca.gov](mailto:Michael.DeSmet@Waterboards.ca.gov)>  
**Cc:** Lilly Tan <[lillytan@gmail.com](mailto:lillytan@gmail.com)>; [franceslee57@gmail.com](mailto:franceslee57@gmail.com); Timothy Kirk <[kirk@medinasetolaw.com](mailto:kirk@medinasetolaw.com)>  
**Subject:** RE: French Cleaners (GeoTracker ID #T10000005026) - 416 West Yosemite Ave, Manteca

**EXTERNAL:**

Hello Michael,

It's my pleasure, and I'm glad you didn't run into any issues downloading the materials.

We have located the business purchase agreement, and I'll be forwarding that to you shortly. In the meantime, have a great weekend.

Best,  
Rowena

---

**From:** DeSmet, Michael@Waterboards <[Michael.DeSmet@Waterboards.ca.gov](mailto:Michael.DeSmet@Waterboards.ca.gov)>  
**Sent:** Friday, August 5, 2022 4:57 PM  
**To:** Rowena Seto <[seto@medinasetolaw.com](mailto:seto@medinasetolaw.com)>  
**Cc:** Lilly Tan <[lillytan@gmail.com](mailto:lillytan@gmail.com)>; franceslee57@gmail.com; Timothy Kirk <[kirk@medinasetolaw.com](mailto:kirk@medinasetolaw.com)>; Michelle McKinney <[McKinney@medinasetolaw.com](mailto:McKinney@medinasetolaw.com)>  
**Subject:** RE: French Cleaners (GeoTracker ID #T10000005026) - 416 West Yosemite Ave, Manteca

Hello Rowena,

Thank you very much. I haven't had a chance to look over things in depth yet, but I will get back to you with any questions. I do appreciate the effort it took to collect these and get them scanned. I was able to access the DropBox folder and download all files in the folder without issue.

Regards,

Michael DeSmet, PG  
Engineering Geologist - UST Enforcement Unit  
Central Valley Regional Water Quality Control Board  
11020 Sun Center Drive, Suite 200  
Rancho Cordova, CA 95670-6114  
Office: 916.464.4830  
[Michael.DeSmet@waterboards.ca.gov](mailto:Michael.DeSmet@waterboards.ca.gov)



---

**From:** Rowena Seto <[seto@medinasetolaw.com](mailto:seto@medinasetolaw.com)>  
**Sent:** Friday, August 5, 2022 12:20 PM  
**To:** DeSmet, Michael@Waterboards <[Michael.DeSmet@Waterboards.ca.gov](mailto:Michael.DeSmet@Waterboards.ca.gov)>  
**Cc:** Lilly Tan <[lillytan@gmail.com](mailto:lillytan@gmail.com)>; franceslee57@gmail.com; Timothy Kirk <[kirk@medinasetolaw.com](mailto:kirk@medinasetolaw.com)>; Michelle McKinney <[McKinney@medinasetolaw.com](mailto:McKinney@medinasetolaw.com)>  
**Subject:** RE: French Cleaners (GeoTracker ID #T10000005026) - 416 West Yosemite Ave, Manteca

**EXTERNAL:**

Hi Michael,

Thank you for your patience. We have located the Uniform Hazardous Waste Manifests from 1996 – 2017 and had them scanned and OCR'ed. You can find them at this DropBox folder:

[https://www.dropbox.com/sh/tikcj3pdhkjhrhc/AAB-M59Tkmcn\\_5b2-rC-gCqa?dl=0](https://www.dropbox.com/sh/tikcj3pdhkjhrhc/AAB-M59Tkmcn_5b2-rC-gCqa?dl=0)

You should be able to download the entire folder. If you run into any problems, please let me and my assistant Michelle know (copied here, [McKinney@MedinaSetoLaw.com](mailto:McKinney@MedinaSetoLaw.com)).

I also located the attached Spreadsheet detailing the volume of product purchased versus the volume disposed, per the manifests. According to our file notes, this shows that over 97.2% of the product purchased was properly disposed as waste, with the remaining lost to evaporation and remaining on clothing.

Best,  
Rowena

**\*\*\*Please note our address has changed. Our new address is below.\*\*\***



**Rowena C. Seto, Esq.**

Medina Seto Law Group  
4 Embarcadero Center, Suite 1400  
San Francisco, CA 94111  
Main: (415) 851-9887  
Direct: (415) 851-9890  
Facsimile: (415) 851-9882  
Toll Free: (877) 217-3810  
[www.MedinaSetoLaw.com](http://www.MedinaSetoLaw.com)

**\*Please note that all members of our law firm are working from home due to the ongoing COVID-19 pandemic. Accordingly, please send all documents by e-mail or facsimile until further notice. All documents sent to our office by mail, UPS, FedEx or messenger will encounter significant delays in processing and distribution to its intended recipient.\***

This e-mail message is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution of this e-mail message is prohibited. If you are not the intended recipient, please destroy all paper and electronic copies of this message and notify the sender.

---

**From:** Rowena Seto  
**Sent:** Wednesday, August 3, 2022 3:13 PM  
**To:** DeSmet, Michael@Waterboards <[Michael.DeSmet@Waterboards.ca.gov](mailto:Michael.DeSmet@Waterboards.ca.gov)>  
**Cc:** Lilly Tan <[lillytan@gmail.com](mailto:lillytan@gmail.com)>; franceslee57@gmail.com; Timothy Kirk <[kirk@medinasetolaw.com](mailto:kirk@medinasetolaw.com)>  
**Subject:** RE: French Cleaners (GeoTracker ID #T10000005026) - 416 West Yosemite Ave, Manteca

Hi Michael,

I've been out of the office on a semi-vacation for the last two weeks and your email came in just after I turned off my out-of-office autoreply – impressive timing.

This is my first day back and I have some catching up to do, as one does when they have the audacity to take time off! I'll circle back with you shortly.

Best,  
Rowena

---

**From:** DeSmet, Michael@Waterboards <[Michael.DeSmet@Waterboards.ca.gov](mailto:Michael.DeSmet@Waterboards.ca.gov)>  
**Sent:** Wednesday, August 3, 2022 1:59 PM  
**To:** Rowena Seto <[seto@medinasetolaw.com](mailto:seto@medinasetolaw.com)>  
**Cc:** Lilly Tan <[lillytan@gmail.com](mailto:lillytan@gmail.com)>; [franceslee57@gmail.com](mailto:franceslee57@gmail.com); Timothy Kirk <[kirk@medinasetolaw.com](mailto:kirk@medinasetolaw.com)>  
**Subject:** RE: French Cleaners (GeoTracker ID #T10000005026) - 416 West Yosemite Ave, Manteca

Hello Rowena,

I am checking in to see if you were able to secure business records or determine Frances/French Cleaners ownership status relative to past owners. I am currently in the process of developing a Potentially Responsible Party memorandum discussing ownership of the property that will be reviewed by Central Valley Water Board and State Water Board management during the determination of responsible parties and the funding status of the project.

Please let me know if you were able to find documents relating to the transfer of the business as well as if you have been able to process the waste manifests mentioned below. Thank you for your time and attention to this case. Please let me know if you have any questions.

Regards,

Michael DeSmet, PG  
Engineering Geologist - UST Enforcement Unit  
Central Valley Regional Water Quality Control Board  
11020 Sun Center Drive, Suite 200  
Rancho Cordova, CA 95670-6114  
Office: 916.464.4830  
[Michael.DeSmet@waterboards.ca.gov](mailto:Michael.DeSmet@waterboards.ca.gov)



---

**From:** Rowena Seto <[seto@medinasetolaw.com](mailto:seto@medinasetolaw.com)>  
**Sent:** Monday, July 11, 2022 7:33 AM  
**To:** DeSmet, Michael@Waterboards <[Michael.DeSmet@Waterboards.ca.gov](mailto:Michael.DeSmet@Waterboards.ca.gov)>  
**Cc:** Lilly Tan <[lillytan@gmail.com](mailto:lillytan@gmail.com)>; [franceslee57@gmail.com](mailto:franceslee57@gmail.com); Timothy Kirk <[kirk@medinasetolaw.com](mailto:kirk@medinasetolaw.com)>  
**Subject:** RE: French Cleaners (GeoTracker ID #T10000005026) - 416 West Yosemite Ave, Manteca

EXTERNAL:

Dear Michael,

Your email is very helpful; thank you. I'll be back in touch after we've had a chance to look for the requested business records and/or after the manifests have been uploaded to our file and are ready for your review.

Best,  
Rowena

**\*\*\*Please note our address has changed. Our new address is below.\*\*\***



**Rowena C. Seto, Esq.**

Medina Seto Law Group  
4 Embarcadero Center, Suite 1400  
San Francisco, CA 94111  
Main: (415) 851-9887  
Direct: (415) 851-9890  
Facsimile: (415) 851-9882  
Toll Free: (877) 217-3810  
[www.MedinaSetoLaw.com](http://www.MedinaSetoLaw.com)

**\*Please note that all members of our law firm are working from home due to the ongoing COVID-19 pandemic. Accordingly, please send all documents by e-mail or facsimile until further notice. All documents sent to our office by mail, UPS, FedEx or messenger will encounter significant delays in processing and distribution to its intended recipient.\***

This e-mail message is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution of this e-mail message is prohibited. If you are not the intended recipient, please destroy all paper and electronic copies of this message and notify the sender.

---

**From:** DeSmet, Michael@Waterboards <[Michael.DeSmet@Waterboards.ca.gov](mailto:Michael.DeSmet@Waterboards.ca.gov)>  
**Sent:** Monday, July 11, 2022 10:26 AM  
**To:** Rowena Seto <[seto@medinasetolaw.com](mailto:seto@medinasetolaw.com)>  
**Cc:** Lilly Tan <[lillytan@gmail.com](mailto:lillytan@gmail.com)>; franceslee57@gmail.com; Timothy Kirk <[kirk@medinasetolaw.com](mailto:kirk@medinasetolaw.com)>  
**Subject:** RE: French Cleaners (GeoTracker ID #T10000005026) - 416 West Yosemite Ave, Manteca

Hello Rowena,

The SafetyKleen records demonstrating the disposal of dry-cleaning solvents containing PCE are the ones relevant to this issue. Based on your February 2019 letter, Ms. Lee converted the solvent-based system to a hydrocarbon-based system in 2009. So, the records from 1996 to 2009, covering the PCE-use period would be most necessary. However, I also think some of the records, post-2009 (as a suggestion, 1 years' worth), would be useful in establishing that Ms. Lee did remove the solvent-based equipment and was then only generating hydrocarbon wastes, but I am open to a better way to demonstrate that the solvent-based system was removed and replaced with the hydrocarbon-based system. Perhaps

the purchase records of the hydrocarbon-based equipment are also available? Establishing with evidence when Ms. Lee started using PCE containing solvents, when she stopped using those solvents, and accounting for those solvents after use is the goal. As I mentioned I am open to the best way of evidencing these items clearly and completely.

Regarding the waste manifests, scanned copies that clearly show disposal dates and volumes would be ideal.

Regarding business ownership, I am interested in a record that shows that Ms. Lee did not purchase the business entity from JoAnn Thayer, that Ms. Lee did not purchase a corporation or some other business vehicle that has responsibility for the release. Ideally, the documentation would show that Ms. Lee created her own business entity and purchased only the equipment from Ms. Thayer, and that she entered into an agreement to lease the building on the property under that business entity that she created and not as a business entity that previously leased the property. Ultimately it should be demonstrated as best as possible that there is a disconnect between previous French Cleaners business entities and Ms. Lee. Z

I hope my explanations have made things more clear, I apologize if they have not. Please let me know if I can provide better clarification. Ultimately, it needs to be shown that Ms. Lee does not have a connection to the PCE discharge or to the business that caused the discharge, other than by virtue of operation of the business that still bears the French Cleaners name.

Regards,

Michael DeSmet, PG  
Engineering Geologist - UST Enforcement Unit  
Central Valley Regional Water Quality Control Board  
11020 Sun Center Drive, Suite 200  
Rancho Cordova, CA 95670-6114  
Office: 916.464.4830  
[Michael.DeSmet@waterboards.ca.gov](mailto:Michael.DeSmet@waterboards.ca.gov)



---

**From:** Rowena Seto <[seto@medinasetolaw.com](mailto:seto@medinasetolaw.com)>  
**Sent:** Friday, July 8, 2022 3:01 PM  
**To:** DeSmet, Michael@Waterboards <[Michael.DeSmet@Waterboards.ca.gov](mailto:Michael.DeSmet@Waterboards.ca.gov)>  
**Cc:** Lilly Tan <[lillytan@gmail.com](mailto:lillytan@gmail.com)>; franceslee57@gmail.com; Timothy Kirk <[kirk@medinasetolaw.com](mailto:kirk@medinasetolaw.com)>  
**Subject:** RE: French Cleaners (GeoTracker ID #T10000005026) - 416 West Yosemite Ave, Manteca

**EXTERNAL:**

Dear Michael,

No need to apologize! I don't expect an immediate response, as I understand people have other matters to tend to, personal lives, etc.

We were able to locate the Safety-Kleen Uniform Hazardous Waste Manifests from 1996 to 2017. Unfortunately, we received these before our firm converted to all-electronic files, and thus these records are all still in their original form (old, thin carbon paper and receipts, with many staples). We will need to have them scanned.

Would you like all the manifests, and in their entirety? Would you prefer electronic copies or should I have tangible copies made for you?

Ms. Lee purchased the business in 1996. We have yet to locate purchase records. What sort of documents are you seeking in this regard?

Best,  
Rowena

---

**From:** DeSmet, Michael@Waterboards <[Michael.DeSmet@Waterboards.ca.gov](mailto:Michael.DeSmet@Waterboards.ca.gov)>  
**Sent:** Friday, July 8, 2022 8:36 AM  
**To:** Rowena Seto <[seto@medinasetolaw.com](mailto:seto@medinasetolaw.com)>  
**Cc:** [franceslee57@gmail.com](mailto:franceslee57@gmail.com); Lilly Tan <[lillytan@gmail.com](mailto:lillytan@gmail.com)>; Timothy Kirk <[kirk@medinasetolaw.com](mailto:kirk@medinasetolaw.com)>  
**Subject:** RE: French Cleaners (GeoTracker ID #T10000005026) - 416 West Yosemite Ave, Manteca

Good morning, Rowena,

Sorry I didn't get back to you yesterday as I was out of the office. Thank you for getting in touch, it is appreciated. I understand the need for time to get back up to speed on this issue. I too look forward to resolving this matter and determining Ms. Lee's responsibility towards the case. I am here to help/provide guidance as much as possible. Likewise, please let me know if anything is needed from me. I look forward to the results of your review.

Regards,

Michael DeSmet, PG  
Engineering Geologist - UST Enforcement Unit  
Central Valley Regional Water Quality Control Board  
11020 Sun Center Drive, Suite 200  
Rancho Cordova, CA 95670-6114  
Office: 916.464.4830  
[Michael.DeSmet@waterboards.ca.gov](mailto:Michael.DeSmet@waterboards.ca.gov)





**From:** Rowena Seto <[seto@medinasetolaw.com](mailto:seto@medinasetolaw.com)>  
**Sent:** Wednesday, July 6, 2022 2:47 PM  
**To:** DeSmet, Michael@Waterboards <[Michael.DeSmet@Waterboards.ca.gov](mailto:Michael.DeSmet@Waterboards.ca.gov)>  
**Cc:** [franceslee57@gmail.com](mailto:franceslee57@gmail.com); Lilly Tan <[lillytan@gmail.com](mailto:lillytan@gmail.com)>; Timothy Kirk <[kirk@medinasetolaw.com](mailto:kirk@medinasetolaw.com)>  
**Subject:** RE: French Cleaners (GeoTracker ID #T10000005026) - 416 West Yosemite Ave, Manteca

EXTERNAL:

Dear Mr. DeSmet,

Thank you for your email, and I hope you had a nice holiday weekend. Please note that I will be taking over the primary handling of this matter, and that this law firm has a new office/ mailing address. Our address and my direct line are in my signature below.

I understand that you spoke with Lilly Tan, Frances Lee's niece, today. I've copied Lilly as well as Ms. Lee on this email; you indeed had Ms. Lee's correct email address.

This matter has been dormant for some time, so we will need to review our file for the requested SafetyKleen documents and ownership records. I will endeavor to get back to you later this week. In the interim, please let me know if there is anything else you need from us. We look forward to working with you to finally resolving this matter.

Best,  
Rowena

**\*\*\*Please note our address has changed. Our new address is below.\*\*\***



**Rowena C. Seto, Esq.**  
**MEDINA SETO LAW GROUP**  
Four Embarcadero Center  
Suite 1400  
San Francisco, CA 94111  
Main: (415) 851-9887  
Direct: (415) 851-9890  
Facsimile: (415) 851-9882  
Toll Free: (877) 217-3810  
[www.MedinaSetoLaw.com](http://www.MedinaSetoLaw.com)

**\*Please note that all members of our law firm are working from home due to the ongoing COVID-19 pandemic. Accordingly, please send all documents by e-mail or facsimile until further notice. All documents sent to our office by mail, UPS, FedEx or messenger will encounter significant delays in processing and distribution to its intended recipient.\***

This e-mail message is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution of this e-mail message is prohibited. If you are not

the intended recipient, please destroy all paper and electronic copies of this message and immediately notify the sender.

----- Forwarded message -----

**From:** DeSmet, Michael@Waterboards <[Michael.DeSmet@waterboards.ca.gov](mailto:Michael.DeSmet@waterboards.ca.gov)>  
**Date:** Fri, Jul 1, 2022, 6:04 AM  
**Subject:** RE: French Cleaners (GeoTracker ID #T10000005026) - 416 West Yosemite Ave, Manteca  
**To:** [Kirk@medinasetolaw.com](mailto:Kirk@medinasetolaw.com) <[Kirk@medinasetolaw.com](mailto:Kirk@medinasetolaw.com)>  
**Cc:** [franceslee57@gmail.com](mailto:franceslee57@gmail.com) <[franceslee57@gmail.com](mailto:franceslee57@gmail.com)>

12 February 2019 letter attached.

Regards,

Michael DeSmet, PG  
Engineering Geologist - UST Enforcement Unit  
Central Valley Regional Water Quality Control Board  
11020 Sun Center Drive, Suite 200  
Rancho Cordova, CA 95670-6114  
Office: 916.464.4830  
[Michael.DeSmet@waterboards.ca.gov](mailto:Michael.DeSmet@waterboards.ca.gov)

---

**From:** DeSmet, Michael@Waterboards  
**Sent:** Friday, July 1, 2022 5:52 AM  
**To:** [Kirk@medinasetolaw.com](mailto:Kirk@medinasetolaw.com)  
**Cc:** [franceslee57@gmail.com](mailto:franceslee57@gmail.com)  
**Subject:** French Cleaners (GeoTracker ID #T10000005026) - 416 West Yosemite Ave, Manteca

Good morning, Mr. Kirk,

I have recently assumed the role of case manager for the Central Valley Water Board site cleanup case referenced in the subject of this email. During my review of this case file, I came across a 12 February 2019 letter from Medina Seto to Paladin Law Group (attached). In that letter, you offer to provide SafetyKleen records that account for the disposal of all tetrachloroethene (PCE) dry cleaning waste generated by Ms. Frances Lee during her ownership and operation of French Cleaners. The Central Valley Water Board does not have copies of these manifests. Will you please provide them?

Additionally, in the 12 February 2019 letter you document that Ms. Lee is a responsible party for this case only because Ms. Lee was named as a responsible party by the Central Valley Water Board. I am hoping to clearly determine Ms. Lee's status, and if Ms. Lee is not a responsible party, then I would like to absolve her of that status. A key piece of information in determining Ms. Lee's status is knowing how Ms. Lee obtained ownership of French Cleaner's from its prior owner, Ms. Joanne Thayer. Specifically, whether Ms. Lee purchased the business entity from Ms. Thayer or Ms. Lee purchased only the equipment from Ms. Thayer and began ownership of French Cleaners as her own business entity. If you can provide documentation of Ms. Lee's ownership status it would be appreciated.

This case is once again under consideration for funding under the State Water Board's Site Cleanup Subaccount Program (SCAP). A definitive determination of Ms. Lee's status will be helpful in determining the appropriate path forward for funding under SCAP, as well as determining Ms. Lee's need for involvement in the program.

Please note I have copied Ms. Lee on this email, using the currently available contact information we have. If this is no longer Ms. Lee's email address, will you please provide her with this email? Please let me know if you have any questions or comments about my request or the case. Thank you for your time and attention.

Regards,

Michael DeSmet, PG  
Engineering Geologist - UST Enforcement Unit  
Central Valley Regional Water Quality Control Board  
11020 Sun Center Drive, Suite 200  
Rancho Cordova, CA 95670-6114  
Office: 916.464.4830  
[Michael.DeSmet@waterboards.ca.gov](mailto:Michael.DeSmet@waterboards.ca.gov)