Alan C. Lloyd, PhD
Secretary for Environmental Protection

California Regional Water Quality Control Board

Central Coast Region

Arnold Schwarzenegger
Governor

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895 Aerovista Place, Suite 101, San Luis Obispo, California 93401
Phone (805) 549-3147 • FAX (805) 543-0397

January 7, 2005

Mr. Richard Berti
c/o Ms. Tami Nystul
Sima Management
115 West Canon Perido St.
Suite 200
Santa Barbara, CA 93101

Certified Mail No. 7003 0500 0004 9151 6722
Return Receipt Requested

Mr. Khosrow Sadeghian
c/o Mr. Samoska
Law Office of Samoska & Friedman
11845 W. Olympic Blvd., #665
Los Angeles, CA 90064

Certified Mail No.7003 0500 0004 9151 6630
Return Receipt Requested

Mr. Masoud Ghodsi
c/o Mr. Robert Sabahat
Harbor Madison, LLP
307 E. Chapman Avenue
Orange, CA 92866

Certified Mail No. 7003 0500 0004 9151 6647
Return Receipt Requested

Mr. Massoud Entezari
1331 San Anderes
Santa Barbara, CA 93101

Certified Mail No. .7003 0500 004 9151 6661
Return Receipt Requested

Dear Ms Nystul, Mssrs. Sadeghian, Ghodshi, Entezari, and Berti,

SLIC: 1015 DE LA VINA STREET, SANTA BARBARA – NORVELL-BASS DRY CLEANERS – TRANSMITTAL OF CLEANUP OR ABATEMENT ORDER NO. R3-2005-0033

Enclosed is Cleanup or Abatement Order (Order) No. R3-2005-0033. This Order directs you to clean up tetrachloroethylene (PCE) and related hazardous compounds discharged to soil and groundwater at the above-noted site. You have been named in this Order because you were a business owner or operator of the Norvell-Bass Dry Cleaners facility or you are a current or historical property owner of the above-noted site.

If you have questions, please contact **William Arkfeld (805) 542-4627 (e-mail: barkfeld@waterboards.ca.gov)** or **Sheila Soderberg at (805) 549-3592.**

Sincerely,

Roger W. Briggs
Executive Officer

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Attachment: Order No. R3-2005-0033

cc:
Ms. Lori Okun, SWRCB – OCC (via email)
Ms. Kate Sulka, Santa Barbara County, Fire Protection Division
Ms. Rebecca Bjork, City of Santa Barbara, Public Works Dept.
Dr. Barbara Lago
Mssrs. Sergio and Manuel Catro, Norvell-Bass Dry Cleaning
Santa Barbara Bank and Trust, c/o Mr. Alan D. Condren, Seed, Mackall, LLP

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION
895 Aerovista Place, Suite 101
San Luis Obispo, California 93401-7906

CLEANUP OR ABATEMENT ORDER NO. R3-2005-0033

Issued to

Jacobus and Dorothea Cobelens, Joseph and Joanne Szumski, Masoud Ghodsi, Massoud Entezari, Reza Kashefi Nadjar, Khosrow Sadeghian, Santa Barbara Bank and Trust Corporation, Radio Square Partners, General Partnership (Lutfallah Hay, Maliheh Hay, Ira I. Pouratian, Jacqueline Pouratian, Matt Pouratian, and Hahnaz Pouratian), Old Town Mall, a California Limited Partnership (Richard Berti, Morris Jurkowitz, and Maxwell Sanders), and Esperanza Investments, a California Limited Partnership (Richard Berti, Peter Kaufman and Gerald Masi) and Esperanza Investments, LLC, a California Limited Liability Company

Norvell-Bass Dry Cleaners
1015 De La Vina Street, Santa Barbara

The California Regional Water Quality Control Board, Central Coast Region (hereafter Board) finds:

1. The subject property has been referenced over the years as one or more of the following: 202 to 220 West Carrillo Street, 6 to 8 Radio Square, and 1011 to 1015 De La Vina, Santa Barbara (hereafter "property").

2. Jacobus and Dorothea Cobelens, Joseph and Joanne Szumski, Masoud Ghodsi, Massoud Entezari, Reza Kashefi Nadjar, Khosrow Sadeghian, Santa Barbara Bank and Trust Corporation, Radio Square Partners (Lutfallah Hay, Maliheh Hay, Ira I. Pouratian, Jacqueline Pouratian, Matt Pouratian, and Hahnaz Pouratian, general partners), Old Town Mall (Richard Berti, Morris Jurkowitz, and Maxwell Sanders, general partners), and Esperanza Investments, a California Limited Partnership ("Esperenza Investments Partnership") (Richard Berti and Peter Kaufman, general partners), and Esperanza Investments, LLC, a California Limited Liability Company ("Esperanza Investments LLC"), hereafter collectively referred to as "dischargers," discharged or permitted the discharge of tetrachloroethylene (hereafter "PCE") to waters of the state underlying a dry-cleaning facility located at the property. The term "dischargers" includes the individuals listed in this paragraph as general partners of Radio Square Partners, Old Town Mall or Esperanza Investments. Discharge of toxic or hazardous material into waters of the state is a violation of the following prohibitions contained in the Water Quality Control Plan, Central Coast Basin (hereafter "Basin Plan"): Section IV.D ("Waste discharged to ground waters shall be free of toxic substances in excess of accepted drinking water standards ..."). The discharge of PCE described in this Order creates, or threatens to create, a condition of pollution or nuisance.

3. A dry cleaning business has operated at the property from at least 1948 until the date of this Order. Known historical to current operators include:

   - Unknown persons operated a dry cleaning business at the property from 1948 to February 1976. The specific type of equipment used during this time period is unknown. Equipment from this time period was generally of the "transfer" type where clothes would need to be transferred from the cleaning machine to a drying machine.

   - Jacobus Cobelens and Dorothea Cobelens, as husband and wife, operated a dry cleaning business at the property from February 1976 to August 1979. The specific type of equipment used during this time period is unknown. Equipment from this time period was commonly of the "transfer machine" type where clothes would need to be manually transferred from the cleaning machine to a drying machine.

   - Joseph Szumski and Joanne Szumski, as husband and wife, operated a dry cleaning business at the property from September 1979 to July 1980. For this ten-month period, the Szumskis used the existing "transfer machine" dry-cleaning equipment at the property.

   - Masoud Ghodsi, Massoud Entezari, and Reza Kashefi Nadjar, each owning one-third interest of the business, operated a dry cleaning business at the property from July 1980 to July 1981. For this year, Masoud Ghodsi, Massoud Entezari, and Reza Kashefi Nadjar used the existing "transfer machine" dry-cleaning equipment at the property. In July 1981, Massoud Entezari and Reza Kashefi Nadjar each sold his share of the dry cleaning business to Khosrow Sadeghian.

   - Khosrow Sadeghian, owning two-thirds interest, and Masoud Ghodsi, owning one-third interest, operated a dry cleaning business at the subject property from July 1981 to September 1983. For two years, Masoud Ghodsi and Khosrow Sadeghian used the existing "transfer" dry-cleaning equipment at the property. In October 1983, Masoud Ghodsi sold his interest of the business to Khsorow Sadeghian.

   - Khsorow Sadeghian operated a dry cleaning business at the subject property from October 1983 to February 1999. For four years, Khosrow Sadeghian used the existing "transfer" dry-cleaning equipment at the property. In June 1987, Khosrow Sadeghian installed self-contained ("dry to dry") dry cleaning equipment at the property. In February 1999, Khsorow Sadeghian sold the dry cleaning business to Shinohara LLC.

   - Yvan Trousselle, General Partner of Shinohara LLC, operated a dry cleaning business at the property using self-contained dry cleaning equipment from February 1999 to August 2001. On August 30, 2001, Shinohara LLC sold the business to Manuel Catro and Sergio Catro. Because of the type of dry cleaning equipment used, Shinohara LLC is not named as a responsible party in this Order.

- Manuel Catro and Sergio Catro operated a dry cleaning business at the property using self-contained dry cleaning equipment from September 2001 to date of this Order. Because of the type of dry cleaning equipment used (self-contained) and PCE wastes were disposed of offsite by licensed waste haulers, Manuel Catro and Sergio Catro are not named as responsible parties in this Order.

4. The historical to current property owners from 1948 until the date of this Order include:

- Christian T. Prip and Anna M. Prip, as husband and wife, owned the property from July 1948 to March 1978. Upon Christian Prip's death in March 1978, one-half interest of the property ownership was transferred to Santa Barbara Bank and Trust Corporation, as trustee of the Christian Prip estate. Santa Barbara Bank and Trust Corporation, a California corporation, and Anna Prip owned the property until Anna Prip's death in May 1988.

- Upon Anna Prip's death in May 1988, Santa Barbara Bank and Trust Corporation, as trustee for both Christian Prip and Anna Prip estates, owned the property. Regional Board staff has insufficient evidence at this time to find that Santa Barbara Bank and Trust Corporation is not entitled to the fiduciary liability exemption of Health & Safety Code §25548-25548.7. In June 1989, Santa Barbara Bank and Trust Corporation sold the property to Radio Square Partners, a general partnership. The beneficiaries of the Christian and Anna Prip estates are not named in this Order because the beneficiaries did not make decisions regarding the property's use during Santa Barbara Bank and Trust Corporations' ownership of the property or have legal authority to enforce the leases.

- Radio Square Partners owned the property from June 1989 to December 1990. Lutfallah Hay, Maliheh Hay, Ira I. Pouratian, Jacqueline Pouratian, Matt Pouratian, and Hahnaz Pouratian are general partners of Radio Square Partners. In December 1990, Radio Square Partners sold the property to Old Town Mall, a California limited partnership, and Esperanza Investments Partnership.

- In December 1989, Santa Barbara Bank and Trust Corporation, as trustee, distributed the remainder of the interests in the Christian and Anna Prip estates.

- In approximately July 2000, Esperanza Investments Partnership became Esperanza Investments LLC.

- Old Town Mall, Esperanza Investments Partnership and Esperanza Investments LLC have owned the property from December 1990 to the date of this Order. Old Town Mall, a California limited partnership owns 85% of the property and Esperanza Investments LLC owns 15% of the property. Old Town Mall, its general partners, and Esperanza Investments LLC and its agents, have knowledge of historic dry cleaner operations at the property, knowledge of the contamination and the ability to control the property. Esperanza Investments Partnership and its general partners had

knowledge of dry cleaner operations, knowledge of the contamination and the ability to control the property during its ownership of the property.

5. Dischargers stored and used PCE at the property as a dry-cleaning solvent. Dischargers caused or allowed PCE and PCE-containing wastes to be discharged to the soil and groundwater underlying the property. The presence of PCE and PCE-containing wastes constitutes pollution or nuisance, as defined in Water Code section 13050.

6. From July 1948 to June 1987, wastewater generated from the PCE cleaning process was discharged to an open drainage channel. The drainage channel was connected to a floor drain that discharged directly to the sanitary sewer (Rincon Consultants, Inc.'s December 15, 1999, *Soil and Groundwater Sampling Assessment* and DMI Environmental Services' February 2, 1998 letter to the Regional Board).

7. During a 1981 site inspection, a Santa Barbara Bank and Trust Corporation employee documented that the concrete floor beneath the boiler was cracked (Whitney Newland deposition dated July 1, 2003). Khosrow Sadeghian indicated that the concrete floor was cracked when he obtained ownership of the dry cleaning business (Eldon Shiffman's June 5, 2003 deposition, Exhibit 141). Santa Barbara Bank and Trust Corporation indicated that the tenant was responsible for interior damages and repair of the concrete floor was needed prior to lease renewal (Eldon Shiffman's deposition, Exhibit 142). In April 1986, Khosrow Sadeghian repaired the concrete floor (Eldon Shiffman's June 5, 2003 deposition, Exhibit 146).

8. The dry cleaner, a beauty shop, and a laundromat, all located with the same building at the property, were periodically flooded because of sanitary sewer system pipe leaks or back-ups in the laundromat facility (Eldon Shiffman's June 5, 2003, deposition, Exhibits 129 through 136, and Khosrow Sadeghian's May 27, 2003, deposition (Volume I), pages 50 to 64). During an August 1981 flood event, Reza Kashefi Nadjar used the air-conditioner pump to pump out accumulated water from the dry cleaner building to the parking lot (Khosrow Sdeghian's May 27, 2003 deposition, Volume I, pages 54-57). The Santa Barbara Fire Department also pumped out flooded areas of the property and discharged this water to the parking lot. Based on Regional Board staff's professional experience, it is likely that PCE within the dry cleaning machines and/or residual PCE in the open drainage channel, floor drain, or sanitary sewer was discharged to the subsurface environment from the dry cleaner facility at the property during these flood events. Based on Regional Board staff's professional experience, it is likely that the cracked floor provided an additional transport pathway for PCE-laden floodwaters to be discharged to the subsurface environment.

9. Pursuant to Chapter 2 of the Basin Plan, present and potential beneficial uses of groundwater underlying the property include domestic and municipal water supply, agricultural water supply, and industrial water supply.

10. PCE is a hazardous substance and a human carcinogen. The PCE detected at the property is waste as defined in California Water Code Section 13050(d). The water quality objective in the Basin Plan for PCE in groundwater is 5 parts per billion (ppb).

11. The maximum PCE concentration detected in soil beneath the property (MW-1) was 819 ppb during the October 1990 site investigation (McClelland Consultants, Inc.'s October 16, 1990, *Site Assessment*). MW-1 is located in the parking lot in front of the dry cleaning facility at the property.

12. The maximum PCE concentration detected in groundwater beneath the property (MW-4) was 1,370 ppb during the October 21, 1999 groundwater sampling event (Rincon Consultants, Inc.'s December 15, 1999, *Soil and Groundwater Sampling Assessment*). The concentrations in groundwater exceed the water quality objectives. The exceedance of applicable water quality objects (WQOs) in the Basin Plan constitutes pollution as defined in California Water Code Section 13050.

13. This enforcement action is being taken for the protection of the environment and as such is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000, et seq.) in accordance with Sections 15307 and 15308, Chapter 3, Title 14, California Code of Regulations (CCR). The issuance of this Order is also an enforcement action taken by a regulatory agency and is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 21000, et seq.), pursuant to Section 15321(a)(2), Title 14, CCR.

14. Pursuant to California Water Code Section 13304(c), dischargers are hereby notified that the Board is entitled to and may seek reimbursement of all reasonable staff costs incurred in its oversight of cleanup of wastes at the property, abating the effects thereof, or taking other remedial action.

15. Any person affected by this action of the Regional Board may petition the State Water Resources Control Board (State Board) to review the action in accordance with Section 13320 of the California Water Code and Title 23, California Code of Regulations, Section 2050. The petition must be received by the State Board, Office of Chief Counsel, within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request.

16. This Order requires several technical and monitoring reports pursuant to Water Code section 13267. This finding is made in compliance with section 13267. The reports required by this Order are necessary to design a corrective action plan and implementation schedule to clean up PCE in groundwater beneath and migrating from the property. The plan and schedule to cleanup soil and groundwater is needed so the Board's Executive Officer can determine if cleanup will be performed appropriately and within a reasonable time. Semiannual groundwater monitoring reports are needed so the Board can assess reasonable progress on the cleanup.

IT IS HEREBY ORDERED, pursuant to Sections 13267 and 13304 of the California Water Code, that the dischargers shall clean up soil and groundwater at and near the property as follows:

1. **By March 1, 2005**, dischargers shall submit a corrective action plan to clean up the full extent of PCE and related compounds in soil and groundwater at and near the property. The corrective action plan shall include an implementation time schedule.

2. By a date to be specified by the Executive Officer, dischargers shall begin implementation of the corrective action plan to clean up soil and groundwater at and near the property. The proposed clean up schedule shall be subject to Executive Officer approval.

3. Dischargers shall sample all monitoring wells pertaining to the property on a semiannual basis in March and October of each calendar year. Depth to groundwater (to 0.01 feet accuracy) and thickness of free product (if discovered) shall be measured in each monitoring well before it is purged and sampled. Before sampling, each well shall be properly purged until measurements of the following parameters have stabilized; temperature, pH, specific conductance, turbidity, and dissolved oxygen. After purging, groundwater samples shall be collected and analyzed for volatile organic compounds and 1,4-dioxane using US EPA method 8260. Groundwater sampling and monitoring requirements can be revised after the Executive Officer's review.

4. Semiannual monitoring reports shall be submitted by the 30th day of May and January, respectively, for the March and October sampling events. Dischargers shall submit reports containing the status of cleanup efforts and results of groundwater quality tests conducted during the previous six months. The first groundwater sampling report is due **by May 30, 2005**.

All technical and monitoring plans and reports required in conjunction with this Order are required pursuant to Section 13267 of the Porter-Cologne Water Quality Control Act and shall include a statement by the Discharger(s) or an authorized representative of the Discharger(s) certifying under penalty of perjury under the laws of the State of California that the report is true, complete, and accurate. Hydrogeological reports and plans shall be prepared by, or under the direct supervision of, and signed and stamped by a registered geologist and/or an appropriately licensed engineer.

These requests are made pursuant to the provisions of Section 13267 of the California Water Code. Pursuant to Section 13268 of the Water Code, a violation of a request made pursuant to Water Code Section 13267 may subject you to civil liability of up to $1,000 per day.

The corrective action plan and groundwater monitoring reports requested by Regional Board staff are needed to evaluate the extent of contaminants in groundwater beneath and potentially migrating from Norvell-Bass Dry Cleaners. You are required to submit these reports because soil and groundwater contamination has been detected at this facility. More detailed information is available in the Regional Board's public file on this matter.

This Order in no way limits the authority of this Regional Board to institute additional enforcement actions or to require additional investigation and cleanup at the facility consistent with California Water Code. This Order may be revised by the Executive Officer as additional information becomes available.

Any person affected by this action of the Regional Board may petition the State Water Resources Control Board (State Board) to review the action in accordance with section 13320 of the California Water Code and Title 23, California code of Regulations, Section 2050. The State Board must receive the petition within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request.

FAILURE TO COMPLY WITH THE PROVISIONS OF THIS ORDER MAY SUBJECT YOU TO FURTHER ENFORCEMENT ACTION, INCLUDING BUT NOT LIMITED TO, ASSESSMENT OF CIVIL LIABILITY UNDER SECTIONS 13268 AND 13350 OF THE CALIFORNIA WATER CODE AND REFERRAL TO THE DISTRICT ATTORNEY OR ATTORNEY GENERAL FOR INJUNCTIVE RELIEF AND CIVIL OR CRIMINAL LIABILITY.

Roger W. Briggs
Executive Officer

1-7-05
Date

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