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***Via Registered Mail -  
Return Receipt Requested***

April 20, 2011

Casillas Brothers Market  
A & S Beacon  
100 Monterey-Salinas Road  
Salinas, California 93908

Samuel Eastman, et al  
P.O. Box 808  
Salinas, CA 93902

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

Dear Site Owners and Site Managers:

**NOTICE**

On behalf of Northern California River Watch ("River Watch") I am providing statutory notification to you of continuing and ongoing violations of the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6901 *et seq.* ("RCRA") in conjunction with your former and/or continuing operations at the gasoline service station site at 100 Monterey-Salina Highway in Salinas ("Site"). Notice of these violations is provided to Casillas Brothers Market as well as the owners of the real property on which the site is situated. Pursuant to RCRA provisions, the current owners of the real property underlying this site may be in part responsible for ongoing contamination due to mere ownership of the real property under which the hazardous contamination has been found. The property owners, according to the Monterey County Assessor's Office include the Samuel Eastman, Timothy Gerrock Eastman, Michael Brent Eastman, Helen Casey Eastman and perhaps the Sam Eastman Trust.

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

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

River Watch hereby notifies Casillas Brothers Market, also known as Casillas Brothers Beacon, as well as Samuel Eastman, Timothy Gerrock Eastman, Michael Brent Eastman, and Helen Casey Eastman (“Responsible Parties”) that at the expiration of the appropriate notice periods under the RCRA, River Watch intends to commence a civil action against each of you on the following grounds:

1. Responsible Parties’ use and storage of petroleum products at the Site has violated and continues to be in violation of permits, standards, regulations, conditions, requirements and/or prohibitions effective pursuant to the RCRA regarding storage of petroleum in underground storage tanks (“USTs”) [42 U.S.C. § 6972 (a)(1)(A)];
2. Responsible Parties’ operations at the Site have caused petroleum contamination of soil and groundwater which presents an imminent and substantial endangerment to human health and the environment [42 U.S.C. § 6972 (a)(1)(B)]; and,
3. Responsible Parties’ past and current operations the Site violate the provisions of RCRA subchapter III (Subtitle C) which governs the handling of hazardous wastes. River Watch contends Responsible Parties have inadequately maintained records of the manner in which hazardous wastes have been treated, stored and/or disposed of; inadequately monitored, reported and/or complied with existing regulations concerning wastes; inadequately provided

storage facility for wastes; and in the past have not developed adequate contingency plans for effective action to minimize damage from the unauthorized releases of hazardous contaminants – all of which has presented a substantial endangerment to human health and to the environment.

## **THE SITE AND BACKGROUND HISTORY**

### **Casillas Brothers Market/ A & S Beacon 100 Monterey-Salinas Highway, Salinas, California**

This service station, UST site is located at the intersection of the Monterey-Salinas Highway (Hwy. 68) and Hitchcock Road. The Site is currently operated as an active, independently-branded gasoline service station and food mart with drinking water lines and sewer lines which serve the single story building on the property. The building is situated within an area of residential, commercial and agricultural properties in this section of Salinas. The Salinas River is located approximately 1.5 miles downgradient of the Site.

The fueling facilities the Site were replaced in mid to late 2003. In May of 2003 petroleum hydrocarbon contamination was discovered in both soils and groundwater beneath two former USTs located between the station building and Hitchcock Road. Initial work in 2004 and 2005 included efforts to determine the gradient and groundwater flow direction and rates, the lateral and vertical delineation of the contamination at the Site, and the sensitive receptors in the area including water supply well survey. In this effort several monitoring wells were installed.

The results of this work determined that groundwater flow is to the south and southeast at a gradient of approximately 0.12 feet/feet; that the chief chemicals of concern - TPHg, benzene, toluene and MTBE - have been found between 10 and 35 feet bgs; and, that the contaminant plume extends laterally to the west, to the east and southeast, and under Monterey-Salinas Highway. Some 17 water supply wells (4 domestic and 13 irrigation) have been reported to exist within one-half mile of the Site, but have not been tested for the presence of hydrocarbons. Consultant Red Hills Environmental determined there is a low probability for impact to such water supplies due to the Salinas Aquifer and the depth of the reported wells.

In 2007, two dual-phase extraction wells were installed for the purpose of assessing the viability of soil vapor extraction as a remediation strategy. By mid-2008 groundwater extraction testing and soil vapor testing had been conducted. Both modalities apparently proved to be feasible methods of helping to remediate the site, and dual-phase extraction was recommended by the consultant.

As of the last monitoring reports River Watch has reviewed (sample date of 12/1/2010), high concentrations of contaminants are present under and around the Site. TPHg levels are as high as 140,000 ug/l, toluene is as high as 36,000 ug/l, benzene is as high as 18,000 ug/l, xylenes are at 13,000 ug/l, and MTBE is at 3,000 ug/l.

While preliminary investigation work has been conducted, at the present time, 8 years from the initial release of contaminants, the pollution of the soil and groundwater remains almost completely unremediated. According to the latest documentation available from Regional Water Quality Control Board files, the contaminant plume has not been adequately characterized in terms of potential impact upon the underlying aquifer.

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

1. Complete delineation of the Site for the purpose of enabling further remediation work to proceed;
2. Initiation of active remediation work such as dual-phase extraction to include elimination of any threats to the adjacent residential population who may currently be exposed to dangerous hydrocarbon and/or benzene vapors;
3. Initiation of vapor intrusion testing in each of the areas above the plume to determine whether station building employees, patrons and/or nearby residents are being exposed to injurious levels of hydrocarbon, benzene or other toxic vapors;
4. Consideration of over-excavation to eliminate lingering sources of NAPL, MTBE, and petroleum hydrocarbon constituents from migrating into offsite groundwater and any local surface waters;
5. Completion of a current sensitive receptor survey to outline and prevent threats to offsite surface waters and local water supply wells;
6. Completion of preferential pathway studies to determine whether there are conduits, sewer lines, storm drains, gravel lenses or other avenues by which hydrocarbons and constituents may be migrating offsite;
7. Completion of a current aquifer profile to determine whether the plume has impacted any underlying aquifer which communicates with groundwater under the Site; and,

8. Current residual mass calculations which will allow the measurement of remediation progress once removal processes are initiated.

## **REGULATORY STANDARDS**

The Resource Conservation and Recovery Act of 1976 is a federal environmental law of the United States the goals of which are to protect the public and the environment from harm caused by waste storage and disposal, and to mandate the proper remediation of soil and groundwater which has been contaminated by hazardous waste and hazardous products, including petroleum hydrocarbons and gasoline formula constituents. The RCRA is a strict liability statute with a statute of limitations of 5 years. Pursuant to its provisions, California has enacted laws and regulations which must be observed in conjunction with RCRA regulations.

California's "Water Quality Objectives" exist to ensure protection of the beneficial uses of water. Several beneficial uses of water exist, and the most stringent water quality objectives for protection of all beneficial uses are selected as the protective water quality criteria. Alternative cleanup and abatement actions need to be considered which evaluate the feasibility of, at a minimum: (1) cleanup to background levels, (2) cleanup to levels attainable through application of best practicable technology, and (3) cleanup to protective water quality criteria levels. Existing and potential beneficial uses of area groundwater include domestic, agricultural, industrial and municipal water supply.

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

## **VIOLATIONS**

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

River Watch contends that Responsible Parties' use and storage of petroleum products at the Site has violated and continues to violate permits, standards, regulations, conditions, requirements and/or prohibitions effective pursuant to the RCRA regarding storage of petroleum in USTs. [42 U.S.C. § 6972(a)(1)(A)].

River Watch contends that between April 10, 2006 and April 10, 2011, Responsible Parties have caused or permitted, cause or permit, or threaten to cause or permit, petroleum contaminants, petroleum constituents and other hazardous waste to be discharged or deposited where it is, or probably will be, discharged into waters of the State and now creates, or threatens to create, a condition of pollution or nuisance. The discharge and threatened discharge of such petroleum waste is deleterious to the beneficial uses of water, and is creating and threatens to create a condition of pollution and nuisance which will continue unless the discharge and threatened discharge is permanently abated.

**B. Mishandling of Hazardous Waste  
[42 U.S.C. § 6924 et seq.; RCRA § 3004]**

River Watch contends that between April 10, 2006 and April 10, 2011, Responsible Parties used and stored petroleum products at the Site in a manner which has allowed significant quantities of hazardous petroleum constituents to be discharged to soil and groundwater beneath the Site and beneath adjacent properties. The contaminant levels of TPHg, benzene, toluene, and MTBE in groundwater at the Site is significantly greater than the allowable MCLs and/or WQOs for said constituents.

River Watch contends that the Responsible Parties have engaged in the following activities or failures to act in violation of the RCRA's waste handling provisions:

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

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

River Watch contends that between April 10, 2005 and April 10, 2011, Responsible Parties have engaged in the following activities or failures to act in violation of the RCRA's waste handling provisions:

1. Deposition and maintenance of hazardous wastes as described in this Notice which has caused the generation and discharge to the environment of hazardous waste;
2. Installation and maintenance of a system of conveyances to dispose of the hazardous waste generated and released from the Site; and,
3. Failure to possess permits for the handling, storage, treatment, transportation, and/or disposal of hazardous or solid waste found at the Site:

**D. Prohibition Against Open Dumping**  
**[42 U.S.C. § 6945 et. seq.;RCRA § 4005]**

River Watch contends that between April 10, 2005 and April 10, 2011, Responsible Parties have engaged in the following activities or failures to act in violation of the RCRA's waste handling and dumping provisions

1. Open dumping by the discharge of hazardous waste to open ground where it will and has contaminated the soils, groundwater and surface waters as described in this Notice;
2. The Site does not qualify as a landfill under 42 U.S.C. § 6944, and does not qualify as a facility for the disposal of hazardous waste; and,
3. Failure to possess a RCRA-authorized permit for the disposal, storage or treatment of solid or hazardous waste of the type currently and historically discharged at the Site.

**E. UST Regulations**  
**[42 U.S.C. § 6991; 42 U.S.C. §6972 (a)(1)(A);RCRA § 9001]**

Provisions of the RCRA govern the use and operation of USTs used for storage of petroleum products (subchapter IX, 42 U.S.C. § 6991 et seq.), and above ground tanks used for the same purposes. The RCRA UST regulatory program is adopted and implemented in

California under the State Underground Storage of Hazardous Substance Account Act, California Health & Safety Code § 25280 et seq.

River Watch contends that between April 10, 2005 and April 10, 2011, Responsible Parties' use and storage of petroleum at the Site has allowed significant quantities of hazardous petroleum constituents to be released or discharged into soil and groundwater in violation of provisions of the RCRA and California's UST regulatory programs including, but not limited to, provisions governing general operating requirements for USTs, release detection and prevention requirements, release reporting and investigation requirements, and release response and corrective action requirements. Specifically, River Watch contends Responsible Parties are liable for the following statutory violations:

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

**F. Imminent and Substantial Endangerment  
[42 U.S.C. § 6972 (a)(1)(B); RCRA § 7002(a)(1)(B)]**

River Watch contends that between April 10, 2005 and April 10, 2011, Responsible Parties used and stored petroleum products at the Site in a manner which has allowed significant quantities of hazardous petroleum constituents to be discharged to soil and groundwater beneath the Site and adjacent properties. The contaminant levels of TPHg, benzene, toluene, and MTBE in groundwater at the Site are significantly greater than the allowable MCLs and/or WQOs for said constituents. Benzene, MTBE, TAME, and TBA are known or suspected carcinogens. Toluene is a reproductive toxin. Ethylbenzene, methanol and xylene are live toxins. All are known to harm both plants and animals. In their concentrations at the Site, these pollutants are now creating an imminent and substantial endangerment to public health and the environment.

Information currently available to River Watch indicates that Responsible Parties' violations as identified above have occurred over the past 5 years, or on numerous separate occasions, and that those violations are continuing.

River Watch contends the violations which are alleged to have occurred are knowing and intentional in that Responsible Parties have used, stored and sold petroleum products at the Site which are known to contain hazardous substances, and have intended that such products will be sold to and used by the public. Responsible Parties have known of the contamination at the Site at least since 2003, and have also known that failing to promptly remediate the pollution allows the contamination to migrate through soil and groundwater at and adjacent to the Site, and to continually contaminate and re-contaminate actual and potential sources of drinking water.

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

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

## **ENTITY BRINGING NOTICE AND CONTACT INFORMATION**

Northern California River Watch, P.O. Box 817, Sebastopol, CA, 95472, telephone number is (707) 824-4372, is a non-profit corporation organized under the laws of the State of California, and dedicated to the protection and enhancement of the waters of the State of California including all rivers, creeks, streams and groundwater in Northern California.

The violations of Responsible Parties as set forth in this Notice affect the economic stability, physical health and aesthetic enjoyment of members of River Watch who reside and recreate in the affected watershed areas. The members of River Watch use the watershed for domestic water supply, agricultural water supply, recreation, sports, fishing, swimming, shellfish harvesting, hiking, photography, nature walks and the like. Their health, use and enjoyment of this natural resource are conditions specifically impaired by these violations of the RCRA.

River Watch has retained legal counsel with respect to the issues and violations presented in this Notice. All communications relating to this Notice should be addressed to:

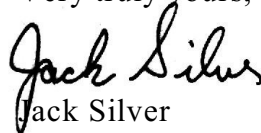
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## CONCLUSION

River Watch believes this Notice sufficiently states the grounds for filing suit under the statutory and regulatory provisions of the RCRA. At the close of the notice periods *or substantially earlier*, River Watch intends to file suit against Responsible Parties under the RCRA provisions for each of the violations as alleged herein, and with respect to the existing conditions at the Site.

However, River Watch is willing to discuss effective remedies for the violations referenced in this Notice. If any of the Responsible Parties wish to pursue such discussions in the absence of litigation, they are encouraged to initiate such discussions immediately so that the parties might be on track to resolving the issues with the Site before these claims under RCRA are filed. River Watch will not delay the filing of a lawsuit if discussions have not commenced within a reasonable time following the service of this Notice.

Very truly yours,

  
Jack Silver

JS:lh

cc: Administrator  
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