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# Turning Contaminated Properties into Profit – Regulatory & Investor Perspectives

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**Winefield & Associates**  
REAL ESTATE VENTURES

# Part I: Investor Perspective

- Site Selection Criteria
- Environmental Funding Resources
- Recent Brownfields Projects



STATE WATER RESOURCES CONTROL BOARD  
**GEOTRACKER**

**200,000 Sites**

DEPARTMENT OF TOXIC SUBSTANCES CONTROL  
**ENVIROSTOR**



# W&A

# Target Properties



## Contaminants vs. Percent Price Reduction

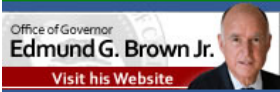
Clean Value	\$1,000,000	\$3,000,000	\$5,000,000	\$10,000,000
Contamination				
Soil with HC	50%	25%	15%	10%
Soil with CS	60%	30%	20%	15%
Soil with HC & CS	70%	35%	25%	18%
GW with HC	90%	40%	30%	20%
GW with CS	No Way	45%	35%	25%
GW with HC & CS	No Way	50%	40%	30%

Legend:

CS = Chlorinated Solvents (e.g., PCE and TCE)

GW = Groundwater

HC = Hydrocarbons (e.g., gasoline, diesel, and benzene)



- Cal/EPA
- State and Regional Water Boards' Map
- Board Priorities
- Laws/Regulations
- Plans/Policies
- Programs
- Decisions Pending and Opportunities for Public Participation

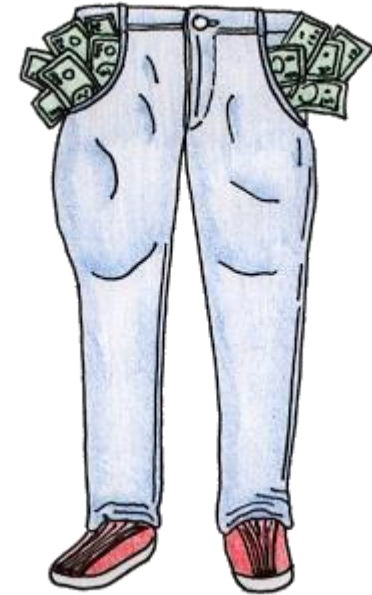
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## Underground Storage Tank Cleanup Fund (USTCF)

### About the Program

- [Mission Statement](#)
- [Background](#)
- [Communications Plan](#)
- [Program Summary](#)
- **Fact Sheets**
  - [Recent Developments and Changes to the UST Cleanup Fund - Factsheet](#), August 23, 2013
  - [Allocation of Three Mills of the Petroleum Storage Fee](#), November 2014
- **Frequently Asked Questions**
  - [General Program](#)
  - [School Districts](#)
  - [Annual Budget Pre-Approval](#) (3/9/12)
  - [AB 358](#) (12/14/11)
  - [AB 291](#) (12/6/11)





Index	5-Year Annual Return
Treasury Bill	1.5%
Commercial Mortgage	5.5%
Dow Jones	10.3%
Morning Star Real Estate	10.5%
NASDAQ	11.8%
Morning Star Health Care	18.0%
<b>Contaminated Real Estate</b>	<b>&gt; 20%</b>



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## Orphan Site Cleanup Fund (OSCF)

The Orphan Site Cleanup Fund (OSCF) is a grant program within the Division of Financial Assistance. OSCF provides financial assistance to contaminated by leaking petroleum underground storage tanks where there is no financially responsible party, and the applicant is not an eligible party.

Effective September 25, 2014, provisions of [Senate Bill 445 \(Hill, Chapter 547, Statutes of 2014\)](#) made changes to the OSCF.

The law changed the eligibility criteria for OSCF grants and the maximum grant amount.

- The OSCF program is no longer limited to funding brownfield sites.
- The maximum amount of grant monies available for an eligible occurrence is \$1.5 million for grant applications filed before January 1, 2014.
- The maximum amount of grant monies available for an eligible occurrence drops to \$1 million for any grant application filed on or after January 1, 2014.

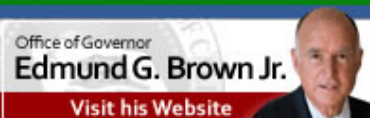
More information is available on the [OSCF Fact Sheet](#).

### OSCF General Information

- [OSCF Fact Sheet](#)
- [OSCF Regulations](#)
- [OSCF Application](#)

### Success Stories

See [examples of OSCF success stories](#).



- [Cal/EPA](#)
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## Up Front



Are outdoor

## Partners Aim to Clean Up With Toxic Properties

**DEVELOPMENT:** Duo bets on sites despite risky ground game.

By **DAINA BETH SOLOMON** Staff Reporter

The sales brochure for an empty lot in Hollywood came with the following warning: “Buyer assumes responsibility for final clean-up.”

That costly prospect scared away most potential buyers, but **Matthew Winefield** and **Reid Breitman** saw gold. The pair actively seek out such potentially toxic properties – in this case a one-time gas station – to fix up and flip.

“We search aggressively for sites that have environmental distress,” said Winefield, listing gas stations, dry cleaners, and metal factories as prospects.

The Hollywood site, near the intersection of Sun-

set Boulevard and Western Avenue, is their latest project, and as with all properties that hold the risk of contamination, the turnaround will not be quick.

Winefield and Breitman, who operate independent companies but partner regularly on cleanup projects, will have to wait a year or so while toxic vapors left from leaky underground petroleum tanks are sucked out of the site. And they’ll have to hold their breath waiting for a \$1 million state grant to come through to foot the bill before they get started.

The pair bought the site for \$1 million and expect to be able to sell the remediated land for about \$4 million. They don’t make deals contingent on getting a clean bill of health for the property, something they said sellers prefer.

That kind of return keeps them in the market for

*Please see DEVELOPMENT page 40*



RINGO H.W. CHIU/LABJ

**Digging In:** Reid Breitman, left, and Matthew Winefield at former Hollywood gas station.

## REV 973 V MOUREN-LAURENS, LEACH OIL. ET AL.

- 18 years of litigation between property owner (Rev 973) and operators with 1000s of PRPs
- Remediation Estimate = \$17+ MM Clean
- Property Value = \$6 MM



$\$600,000 + \$1,700,000 > \$2,000,000$



# Part II: Regulatory Perspective

## **GARDEN GROVE SITE OVERVIEW**

- Site Located in Garden Grove, California (Orange County)
- Dry Cleaning Plant operated from 1969 through mid 1980s
- Shallow groundwater at 13 to 17 feet bgs
- Site Investigations initiated in 2006
- California Regional Water Quality Control Board (Santa Ana Region) lead agency
- High concentrations of PCE and TCE in soil, soil gas, and groundwater identified during site investigation activities
- Air sparging coupled with Soil Vapor extraction conducted at the site between February 2008 and February 2009
- No further action determination for soil was issued in May 2009



## SITE OVERVIEW (CONTINUED)

- Shallow groundwater (20 feet bgs) with PCE concentration of 11,300  $\mu\text{g}/\text{L}$  near the source area and 4,610  $\mu\text{g}/\text{L}$  in the off-Site downgradient areas
- In April 2010 the responsible party informed Regional Board that it could no longer afford to continue with groundwater assessment and remediation activities
- The groundwater remediation system and all equipment and associated piping were removed from the Site without Regional Board concurrence
- Between April 2010 and December 2013, numerous efforts were made to obtain voluntary cooperation from the responsible party and the property owner
- In December 2013, a cleanup and abatement order (CAO) was issued to both parties



## CAO

- Resume groundwater monitoring program within 45 days and report quarterly
- Submit work plan for additional groundwater investigation
- Submit work plan for human health risk assessment
- Submit an FS and RAP based on the investigation results
- Implement remediation and submit monthly progress reports.

## NOTICE OF VIOLATION

- The responsible parties did not respond to the work required by the CAO
- The first notice of violation (NOV) was issued in June 2014
- The second NOV was issued in September 2015
- ABW, LLC purchased the property in April 2014 and filed a suit against the responsible party
- As a result of the lawsuit by ABW, an old insurance policy for the responsible party was triggered

## FIELD IMPLEMENTATION

- The insurance company assigned an attorney and a consulting firm to respond to the Regional Board requirements
- Access to the City Yard was finally secured in early 2016
- First round of groundwater sampling was conducted in February 2016
- A work plan addendum was approved for the second phase of groundwater and soil vapor investigation in September 2016

## FIELD IMPLEMENTATION

- The responsible party did not meet the deadline for the second phase of field work. The third NOV was issued in January 2017
- Second phase of groundwater and soil vapor investigation was conducted in February 2017
- Third phase of groundwater investigation was conducted from November 2017 to January 2018
- Soil vapor and indoor air sampling was conducted in July 2018
- Sub-slab sampling of the on-site building due to tenant change requested by RWQCB in August 2018
- Additional groundwater investigation requested by the RWQCB in October 2018
- Additional indoor air sampling to be conducted during Winter 2018.



## PRIVATE INVESTORS

- A case of State of California versus the RP and landowners could have ended up in the courts for years
- Private investors purchased the property for less than \$500k and spent about \$150k to trigger the existing the insurance policy for environmental damage
- The investors have resources, the patience and desire to return the properties to productive use – for an expected profit
- The investors need to understand the cleanup process for a contaminated property
- They mostly rely on “prospective purchaser agreement” (PPAs) with the regulatory oversight agency



## NEW YORK TIMES INTERVIEW

“We’re glad that they pushed this forward,” said Nick Amini, the Santa Ana Regional Water Quality Control Board’s project manager for the Garden Grove site. “Otherwise, it would be difficult to cleanup. If we issued a cleanup and abatement order, we’d go to court. That would take years. This makes it much more efficient. It’s almost a partnership between investors and the regulators.”

*Excerpts from February 25, 2016 article in Your Money section of New York Times by Wealth Matters columnist Paul Sullivan*

## PART II SUMMARY

- Not all contaminated properties are created equal
- Environmental damage insurance policies are key
- Do not expect quick turn around on your investment
- Litigation is most likely necessary to trigger the insurance policy
- Cleanups involving the insurance companies are slow and cumbersome
- Environmental cleanup are inherently unpredictable
- Regulatory oversight is thorough and systematic
- Be prepared for the risk of being named as a responsible party
- State/federal grants (e.g., CA SCAP funding) may be fallback options

## **ACKNOWLEDGEMENT**

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