

California Regional Water Quality Control Board
North Coast Region

Cleanup and Abatement Order No. R1-2004-0072

For

Shamrock Materials, Inc.
Cloverdale Gravel Processing and Concrete Batch Plant

Sonoma County

The California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board), finds that:

1. Shamrock Materials, Inc., (hereinafter Shamrock) operates a gravel processing and concrete batch plant, located at 30022 Levee Road in Cloverdale, Sonoma County (Cloverdale plant). The site is located immediately adjacent to both the Russian River and Big Sulphur Creek. Shamrock mines sand and gravel from gravel bars located within the Russian River, in the upper Alexander Valley. Mined sand and gravel are trucked to the processing plant for crushing, sorting and washing. Rock products are sold as-is or used as an ingredient for concrete products produced in Shamrock's on-site concrete batch plant.
2. On October 29, 1987, the Regional Water Board issued Waste Discharge Requirements (WDRs), Board Order Number 87-110 for this facility. The WDRs cover management of washwater wastes from Shamrock's gravel processing and concrete batch plant operations. Wastewaters are discharged to a series of on-site siltation ponds, with collected silt ultimately spread onto nearby vineyards. The WDRs do not authorize the discharge of any waste material to waters of the state.
3. Shamrock delivers concrete to its customers via concrete mixing trucks. Excess concrete remaining in the trucks is brought back to the Cloverdale plant and washed out into an on-site, un-lined waste containment pond. Shamrock periodically dredges out this un-lined washout pond and transports the material via trucks to an onsite area adjacent to Big Sulphur Creek. Here the concrete materials are dumped onto the ground, dried, and crushed, to be reused as feedstock for new concrete products. This area is identified in Shamrock's WDRs as a gravel stockpile area.
4. Concrete truck washout wastes typically contain heavy metals, dissolved solids and caustic materials. Groundwater or storm water runoff coming in contact with concrete washout wastes can result in levels of pollutants that can violate Basin Plan limitations and can impact beneficial uses.

5. Current WDRs address how wastes generated during sand and gravel processing, aggregate crushing and screening, and from concrete batch plant operations are handled. They are to be excavated each year and spread onto nearby agricultural lands. No provisions for the handling and recycling of concrete truck washout wastes are identified within Shamrock's WDRs.
6. Concrete batch plants that discharge storm water runoff to surface waters are required by federal law to obtain an NPDES industrial storm water permit. The State Water Resources Control Board has adopted a General Permit for Storm Water Associated with Industrial Activities (Order No. 97-03-DWQ). Compliance with this permit is administered by the Regional Water Board on behalf of the State Water Resources Control Board. This batch plant facility does not currently have coverage under this General Permit and therefore is prohibited from discharging storm water runoff to surface waters.
7. On December 23, 2003, as part of a citizen complaint, the Regional Water Board received a videotape showing cement-laden storm water running off the levee road, directly into the Russian River. The videotape revealed that the discharge resulted from activities related to the cleanout and transfer of Shamrock's concrete wastes from their un-lined washout pit to a concrete waste storage and recycling area adjacent to Big Sulphur Creek. The videotape documented an excavator digging out the pond and discharging concrete wastes directly onto Levee Road. Front-end loaders then loaded the concrete wastes into dump trucks for transport to the concrete recycling area. During this excavator dumping and front-end loader truck loading activity, excess concrete slurry discharged directly to the river, as documented on the above-mentioned videotape.
8. On December 24, 2003, Regional Water Board staff inspected the Cloverdale plant. Staff noted the evidence of direct discharges of cement wastes to the Russian River at various points along the Levee Road. Over a dozen discharge points were evident along the entire length of the road. Concrete wastes were evident on the road as were rills that were evidence of discharges off of the road to the Russian River.
9. On December 24, 2003, Regional Water Board staff noted discharges of storm water runoff into Big Sulphur Creek, from the area where concrete wastes had been dumped along the northern portion of Shamrock's facility. Storm water runoff collected throughout the concrete waste storage area, an area of approximately two acres, and discharged directly to the creek as the runoff ponding area continued to expand. A small gravel berm created in an attempt to prevent storm water runoff from discharging to Big Sulphur Creek had failed to prevent runoff from directly discharging to the creek.
10. On January 14, 2004, the Regional Water Board received a complaint and photographs regarding the discharge of concrete wastes directly into the Russian River, resulting again from the cleanout and transfer of concrete wastes from Shamrock's washout pit to their concrete waste recycle area.

11. Regional Water Board staff inspection of these facilities have shown uncontrolled discharges of concrete wastewater to land in a manner that poses a threat to adversely impact surface and ground water quality.
12. The beneficial uses of the Russian River, as designated in the Water Quality Control Plan for the North Coast Region (Basin Plan), include:
 - a. Municipal and domestic supply
 - b. Agricultural supply
 - c. Industrial supply
 - d. Industrial service supply
 - e. Groundwater recharge
 - f. Navigation
 - g. Water contact recreation
 - h. Non-contact water recreation
 - i. Warm freshwater habitat
 - j. Cold freshwater habitat
 - k. Rare, threatened, or endangered species
 - l. Migration of Aquatic Organisms
 - m. Spawning, Reproduction and/or Early Development
 - n. Wildlife habitat
 - o. Estuarine habitat

The beneficial uses of groundwater, as designated in the Water Quality Control Plan for the North Coast Region (Basin Plan), include:

- a. Municipal and domestic supply
 - b. Agricultural supply
 - c. Industrial supply
 - d. Industrial service supply
13. The Basin Plan contains specific standards and provisions for maintaining high quality waters of the state that provide for the beneficial uses listed above. The Action Plan for Logging, Construction and Associated Activities (which includes construction related materials) in the Basin Plan includes two prohibitions:
 - Prohibition 1 - *“The discharge of soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature into any stream or watercourse in the basin in quantities deleterious to fish, wildlife, or other beneficial uses is prohibited.”*

- Prohibition 2 - *“The placing or disposal of soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature at locations where such material could pass into any stream or watercourse in the basin in quantities which could be deleterious to fish, wildlife, or other beneficial uses is prohibited.”*
14. The Action Plan states: “where investigations indicate that the beneficial uses of water may be adversely affected by waste dischargers, the staff shall require the submission of Reports of Waste Discharge.”
15. Section 3 of the Basin Plan contains water quality objectives that specify limitations on certain water quality parameters not to be exceeded as a result of waste discharges. The water quality objectives (pages 3-2.00, 3-3.00 and 3-11.00) that are considered of particular importance in protecting the beneficial uses from unreasonable effects due to discharges from logging, construction, or associated activities, include the following:
- Color: Waters shall be free of coloration that causes nuisance or adversely affects beneficial uses.
 - Suspended Material: Waters shall not contain suspended material in concentrations that cause nuisance or adversely affect beneficial uses.
 - Settleable Material: Waters shall not contain substances in concentrations that result in deposition of material that causes nuisance or adversely affect beneficial uses.
 - Sediment: The suspended sediment load and suspended discharge rate of surface waters shall not be altered in such a manner as to cause nuisance or adversely affect beneficial uses.
 - Turbidity: Turbidity shall not be increased more than 20 percent above naturally occurring background levels. Allowable zones within which higher percentages can be tolerated may be defined for specific discharges upon the issuance of discharge permits or waiver thereof.
 - Chemical Constituents: Groundwater used for domestic or municipal supply shall not contain concentrations of chemical constituents in excess of the limits specified in California Code of Regulations, Title 22, Division 4, Chapter 15, Article 4, Section 64435 Tables 2 and 3, and Section 64444.5 (Table 5) and listed in Table 3-2 of the Basin Plan.

16. The following sections of the Porter-Cologne Water Quality Control Act authorize the Regional Water Board to require persons to remediate unpermitted discharges of waste:
- Section 13267(a) - *“A regional board, in establishing or reviewing any water quality control plan or waste discharge requirements, or in connection with any action relating to any plan or requirement or authorized by this division, may investigate the quality of any waters of the state within its region.”*
 - Section 13267(b) - *“In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or proposes to discharge waste within its region...that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires.”*
 - Section 13267(c) - *“In conducting an investigation pursuant to subdivision (a), the regional board may inspect the facilities of any person to ascertain whether the purposes of this division are being met and waste discharge requirements are being complied with. The inspection shall be made with the consent of the owner or possessor of the facilities or, if the consent is withheld, with a warrant duly issued pursuant to the procedure set forth in Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure. However, in the event of an emergency affecting the public health or safety, an inspection may be performed without consent or the issuance of a warrant.”*
 - Section 13304(a) - *“Any person who has discharged or discharges waste into the waters of this state in violation of any waste discharge requirement or other order or prohibition issued by a regional board or the state board, or who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into waters of the state and creates, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board, clean up the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including, but not limited to, overseeing cleanup and abatement efforts.”*
17. As explained above, Shamrock has placed concrete waste material into areas that discharge directly to the Russian River and Big Sulphur Creek, has therefore caused, and further threatens to cause a discharge of waste into surface waters of the state. In addition, Shamrock has deposited concrete slurry and washwater to unlined ponds, which threatens to discharge (via percolation) to groundwater.
18. Concrete waste is deleterious to fish, wildlife, and other beneficial uses. The heavy metal content and caustic nature of concrete waste makes it toxic to fish and other aquatic life. Soluble metals and dissolved solids contained in this waste may result in levels of pollution in receiving waters in excess of state drinking water standards. The addition of sediment caused by the discharge of concrete waste is also deleterious. The water quality

of the Russian River has been determined to be impaired due to excessive sediment. Excessive sediment is deleterious to fish and other aquatic organisms, can cause the direct loss of river floodwater storage, flood peak attenuation and can interfere with other beneficial uses.

19. The quantity of concrete waste materials discharged to the Russian River and Big Sulphur Creek was deleterious to aquatic life and municipal and domestic supply in violation of Prohibition 1 of the Action Plan. The quantity of material threatening to discharge into the Russian River and Big Sulphur Creek poses the same threat to fish, wildlife, and beneficial use for municipal and domestic supply and therefore violates Prohibition 2 of the Action Plan.
20. The discharges and threatened discharges of concrete waste to surface water and groundwater have created or threaten to create pollution or nuisance because they contain sediment and materials toxic to aquatic life and humans, which unreasonably interfere with beneficial uses for wildlife and municipal and domestic supply. The discharge and threatened discharge of concrete waste to surface water and groundwater is therefore subject to cleanup and abatement under Water Code Section 13304.
21. The workplan required by this Order is necessary to ensure that the future threat to water quality created by the concrete waste material placement described above, or any other pollutant discharges, are properly abated and controlled. More detailed information is available in the Regional Water Board's public file on this matter.
22. This is an enforcement action by a regulatory agency, being taken for the protection of the environment, and is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code Section 21000 et seq.) in accordance with California Code of Regulations (CCRs), Title 14, Sections 15308 and 15321.
23. Failure to comply with the terms of this Order may result in enforcement under the CWC. Any person failing to cleanup or abate threatened or actual discharges as required by this Order is, pursuant to CWC Section 13350(e), subject to administrative civil liabilities of up to five thousand dollars (\$5,000.00) per day.
24. Any person affected by this action of the Regional Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with CWC Section 13320 and Title 23, CCRs, Section 2050. The petition must be received by the State Water Board within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request. In addition to filing a petition with the State Water Board, any person affected by this Order may request the Regional Water Board to reconsider this Order. To be timely, such request must be made within 30 days of the date of this Order. Note that even if reconsideration by the Regional Water Board is sought, filing a petition with the State Water Board within the 30-day period is necessary to preserve the petitioner's legal rights. If you choose to request reconsideration of this Order or file a petition with the

State Water Board, be advised that you must comply with the Order while your request for reconsideration and/or petition is being considered.

THEREFORE, IT IS HEREBY ORDERED that, pursuant to CWC Sections 13304 and 13267(b), Shamrock shall cleanup and abate the above discharges by complying with the following requirements:

1. Immediately cease activities that result in concrete waste material discharges or threatened discharges to surface and ground waters;
2. Submit¹ a workplan to the Regional Water Board, for Executive Officer concurrence, on or before September 15, 2004, that includes, at a minimum, the following elements:
 - a. Proposal to identify and characterize waste materials located at all concrete truck washout areas and all areas where stockpiled concrete wastes are subject to discharge to surface and ground waters. The characterization plan shall include a sampling and analysis plan if it is intended to allow such materials to remain in place. If such wastes are proposed to be disposed in contained locations or disposed off-site, the plan shall describe this proposal in detail. If wastes are removed, a sampling and analysis plan to identify remaining soil contamination under waste piles may be required.
 - b. Monitoring plan to assess ground water impacts due to previous discharges of concrete waste.
 - c. Plan for the future management of both the concrete truck washout areas and the concrete waste recycling areas. The plan shall detail how the liquid fraction of concrete waste will be managed in a manner that is protective of ground and surface waters. The plan shall detail how stockpiled solids from washout activities will be protected from contaminating storm water runoff and from generating leachate that may impact areal ground water quality.
 - d. Plan for the management of other stockpiled materials, chemicals and wastes in a manner that will not pose a threat to ground or surface waters.
 - e. Time schedule for the timely implementation of all proposed activities.
3. Be advised that a Notice of intent for coverage under a NPDES storm water permit will be required in the event of any future discharges of storm water to surface water from concrete batch plant facility.

¹ In this Order, the term "submit" means that the required document(s) must be actually received by the Regional Water Board on or before the applicable due date.

4. Following Executive Officer written concurrence, implement the workplan. All work to ensure that pollution reduction practices are implemented, by temporary and/or permanent measures, shall be completed as quickly as feasible.
5. If, for any reason, Shamrock is unable to perform any activity or submit any documentation in compliance with the deadlines for the above tasks or in the workplan implementation schedule submitted pursuant to this Order and concurred with by the Executive Officer, the Dischargers may request, in writing, an extension of the time as specified. The written extension request shall include justification for the delay and shall be received by the Regional Water Board not less than 15 calendar days prior to the deadline sought to be extended. An extension may be granted for good cause, in which case this Order will be accordingly revised.
6. This Order in no way limits the authority of the Regional Water Board to institute additional enforcement actions or to require additional investigation and cleanup at the facility consistent with the California Water Code. This Order may be revised by the Executive Officer as additional information becomes available.

Ordered by _____

Catherine E. Kuhlman
Executive Officer

August 18, 2004