

California Regional Water Quality Control Board
North Coast Region

CLEANUP AND ABATEMENT ORDER NO. R1-2005-0118

FOR

Alan and Melissa Spencer
Everett H. Buckley
Barbara Von Tillow

1730 Fourth Street
Santa Rosa

Sonoma County

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

1. The Von Tillow family owned property identified as 1730 Fourth Street in Santa Rosa, California (Assessor's Parcel Number 009-121-050) (hereinafter Site) and operated the Von Tillow Burbank Cleaners from the 1920s to 1976. In 1976, Allen and Barbara Von Tillow sold the business to Everett H. Buckley (Buckley) and Barbara Henry (Henry) with an option to buy the property.
2. In 1982, Buckley and Henry exercised their option and took title to the property. In 1986 they sold the property to Alan and Melissa Spencer and continued to operate the dry cleaning business under a lease from the Spencers. In 1987, Buckley and Henry sold the business to Elmer and Jan Knapp.
3. The Site is bordered on the north by Fourth Street, on the east and west by commercial properties and on the south by Santa Rosa Creek. Land use in the general Site vicinity includes commercial and residential properties. The nearest surface water body is Santa Rosa Creek located immediately adjacent to the south. The nearest water supply well is located less than 250 feet to the west. Other water supply wells exist in the area.
4. In August 1985, Regional Water Board staff conducted a site inspection. At that time, Buckley identified the presence of three underground storage tanks including a 500-gallon Stoddard solvent tank, a 1,000-gallon fuel oil tank and a 500-gallon gasoline tank.
5. In April 1991 a written anonymous complaint was submitted to the City of Santa Rosa stating that two or three underground storage tanks had been in the ground since 1923 and could be releasing fuel and cleaning solvent into Santa Rosa Creek.
6. The Santa Rosa Fire Department (SRFD) is the lead agency regarding tank closure. The Santa Rosa Fire Department, City of Santa Rosa, and Sonoma County Superior Court regulatory and enforcement history includes the following:
 - June 1993 – SRFD requested information from Alan Spencer regarding the underground storage tanks and/or proof of removal. None was provided.

- February 1995 - Joint inspection conducted with SRFD and Regional Water Board staff. Two tanks were located.
 - March 1995 – SRFD requested a work plan from Alan Spencer to remove the tanks.
 - September 1995 – SRFD requested an update due to lack of activity.
 - November 1996 – SRFD site inspection conducted. Tanks remained in place. Warning notice issued to Alan Spencer.
 - January 1997 – Alan Spencer notifies SRFD that he is proceeding with requested work.
 - July 1998 – SRFD staff meet with Alan Spencer.
 - July 1998 – SRFD sends Alan Spencer a letter outlining removal process.
 - August 1998 – SRFD telephoned Alan Spencer.
 - August 1998 – SRFD sent Alan Spencer another letter due to missed deadline.
 - November 1998 – SRFD sent certified letter to Alan Spencer warning him of State and Federal tank upgrade requirements.
 - November 1998 – Alan Spencer reports that he is proceeding with tank removal.
 - December 1998 – SRFD phone call to Alan Spencer.
 - September 1999 – SRFD sent pre-citation notice to Alan Spencer.
 - November 10, 1999 – Fire Code Violations, Criminal Complaint Request submitted to City Attorney’s Office.
 - March 29, 2000 – City Attorney’s office files Complaint with Sonoma County Superior Court.
 - April 4, 2000 – Sonoma County Superior Court calendar mandatory appearance citation. Mandatory appearance scheduled for April 11, 2000.
 - April 11, 2000 – Court hearing. Continued to May 3, 2000.
 - May 3, 2000 – Defendant not present. Defendant pleads nolo contendere to counts I SR 18-44.7902.1.7.1, II SR 18-44.7902.1.7.2.3, count III SR 18-44.7902.1.7.2.6. Defendant convicted on counts I, II and III. Court makes finding of guilt. Defendant to have tank removed within 60 days of issuance of permit for removal and fined \$750.00.
 - October 3, 2000 – Violation of probation. Continued to October 5, 2000.
 - October 5, 2000 – Complaint filed. Continued to October 12, 2000.
 - October 6, 2000 – Defendant paid fine in full.
 - October 12, 2000 – Court hearing. Violation of probation admitted. Original terms in full force and effect.
7. On November 16, 2000, the fuel oil and Stoddard solvent tanks were removed from the Site. Soil samples collected from beneath the cleaning solvent tank contained total petroleum hydrocarbons as gasoline (TPHg) at up to 1400 parts per million (ppm) and TPH as diesel (TPHd) at up to 4,900 ppm. The laboratory reported that the diesel detections were Stoddard solvent. Regional Water Board staff observed sheen on water in the tank pit, stained soil, and strong odors. Evidence of a discharge from the fuel oil tank was not found.
8. On January 18, 2001, Regional Water Board staff requested the submittal of a work plan to characterize and define the extent of contamination. A work plan was submitted in March 2001 and proposed to complete a geophysical study to locate the third underground storage tank, a sensitive receptor survey and the installation of groundwater monitoring wells. Regional Water Board staff concurred with the plan in writing on April 17, 2001 and requested a status report regarding the presence or absence of the third tank by April 30, 2001.

9. The status report was not submitted. On August 10, 2001, the Executive Officer of the Regional Water Board issued a 13267 Order for the submittal of the status report within 45 days of issuance of the Order. The Geophysical study was completed on October 22, 2001 and subsurface anomalies were found. The subsurface anomalies were investigated on May 31, 2002 and the third underground storage tank was not found. The sensitive receptor survey was completed. The soil boring/monitoring well installation work was not completed.
10. Due to the ongoing delays and the threat to Santa Rosa Creek, the Executive Officer of the Regional Water Board issued Cleanup and Abatement Order No. R1-2002-0106 (CAO) to Alan and Melissa Spencer on October 17, 2002. The CAO required the completion of investigative and cleanup work including interim and final corrective action as necessary. At the time of issuance of the CAO, the historical record was incomplete regarding past owners and operators.
11. Investigative work commenced in December 2002 and January 2003 with the drilling of two soil borings and the installation of three groundwater-monitoring wells. Cone penetrometer test (CPT) borings were drilled in December 2004. The results revealed the presence of Stoddard solvent, gasoline, and PCE in groundwater at up 680,000, 23,000 and 140 ug/l, respectively. Stoddard solvent and gasoline range hydrocarbons were detected to a depth of 56 to 60 feet below ground surface. Two additional borings to be drilled at an angle to investigate the threat/impact to Santa Rosa Creek were also proposed and not completed.
12. On February 26, 2004, a revised Interim Corrective Action Plan was submitted, which included a proposal to conduct groundwater extraction from MW-3 located in the vicinity of the former Stoddard solvent tank. The groundwater extraction system has not been installed and operated.
13. In July 2004, the third underground storage tank location was discovered. The tank contents were chemically analyzed and determined to be predominantly Stoddard solvent and gasoline. The 250-gallon tank was removed in December 2004. Soil beneath and adjacent to the former tank contained PCE and gasoline constituents including toluene, ethylbenzene and xylenes.
14. Regional Water Board staff continued to research the history of the former cleaners and found that:
 - Buckley and Henry used the cleaning solvent tank and did not use the fuel oil tank and gasoline tank. At some time, Buckley and Henry switched to using Shell140F, which is a petroleum product, as the cleaning agent, which was delivered in 55-gallon drums and manually pumped directly into the cleaning machines.
 - The Knapps operated at 1730 Fourth Street as a drop off/pick up location only.
 - Buckley and Henry were the last operators to use the cleaning solvent tank. Alan and Barbara Von Tillow were the last operators to use the 150-gallon underground storage tank.
 - Allen Von Tillow and Barbara Henry are deceased.

15. Alan and Melissa Spencer, Everett H. Buckley and Barbara Von Tillow are hereinafter referred to as Dischargers.
16. The historical record, facts and data will be continually reviewed and may result in additional parties being named in this Order as Dischargers, in which case this Order would be revised.
17. The Dischargers have caused or permitted, cause or permit, or threaten to cause or permit waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance. Continuing discharges are in violation of the Porter-Cologne Water Quality Control Act and provisions of the Water Quality Control Plan for the North Coast Region (Basin Plan).
18. Beneficial uses of areal groundwater include domestic, irrigation, and industrial supply. Beneficial uses of Santa Rosa Creek, a tributary to the Laguna de Santa Rosa and the Russian River are:
 - a. municipal and domestic supply
 - b. agricultural supply
 - c. industrial process supply
 - d. groundwater recharge
 - e. navigation
 - f. water contact recreation
 - g. non-contact water recreation
 - h. commercial and sport fishing
 - i. warm freshwater habitat
 - j. cold freshwater habitat
 - k. wildlife habitat
 - l. migration of aquatic organisms
 - m. spawning, reproduction, and/or early development
 - n. Freshwater replenishment
 - o. Rare, threatened, or endangered species
 - p. Estuarine habitat
19. The California Water Code, and regulations and policies developed thereunder require cleanup and abatement of discharges and threatened discharges of waste to the extent feasible. Cleanup and abatement activities are to provide attainment of background levels of water quality, or the highest water quality which is reasonable if background levels of water quality cannot be restored. Alternative cleanup levels greater than background concentration shall be permitted only if the discharger demonstrates that: it is not feasible to attain background levels; the alternative cleanup levels are consistent with the maximum benefit to the people of the State; alternative cleanup levels will not unreasonably affect present and anticipated beneficial uses of such water; and they will not result in water quality less than prescribed in the Basin Plan and Policies adopted by the State and Regional Water Board.
20. Water quality objectives in the Basin Plan are adopted to ensure protection of the beneficial uses of water. 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 must 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.

Exhibit 1 attached to and made part of this Order sets out the water quality objectives for groundwater.

21. Discharge prohibitions contained in the Basin Plan apply to this site. State Water Resources Control Board Resolution 68-16 applies to this site. State Water Resources Control Board Resolution 92-49 applies to this site and sets out the "Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under Section 13304 of the California Water Code."
22. The Regional Water Board will ensure adequate public participation at key steps in the remedial action process, and shall ensure that concurrence with a remedy for cleanup and abatement of the discharges at the site shall comply with the California Environmental Quality Act (Public Resources Code Section 21000 et seq. (CEQA)).
23. The issuance of this Cleanup and Abatement Order is an enforcement action being taken for the protection of the environment and, therefore, is exempt from the provisions of CEQA in accordance with Section 15308 and 15321, Chapter 3, Title 14 of the California Code of Regulations.
24. Any person affected by this action of the Board may petition the State Water Resources Control Board (State Water 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 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 appeal the Order, please be advised that you must comply with the Order while your appeal is being considered.

THEREFORE, IT IS HEREBY ORDERED that, pursuant to California Water Code Sections 13267(b) and 13304, the discharger shall cleanup and abate the discharge and threatened discharges forthwith and shall comply with the following provisions of this Order:

- A. Conduct all work under the direction of a California registered civil engineer or geologist experienced in soil and groundwater assessment and remediation.
- B. Submit an acceptable work plan to 1) define the vertical and lateral extent of contamination including the area beneath the former cleaning plant building and 2) investigate the threat and/or impact to Santa Rosa Creek within 60 days of issuance of this Order.
- C. Submit a report of completed work within 60 days of Regional Water Board Executive Officer's concurrence with the proposed scope of work identified in Task B. The report must contain an acceptable work plan if additional effort is necessary to define the lateral and vertical extent of contamination.
- D. Continue with Tasks B and C until the Regional Water Board Executive Officer has determined that the vertical and lateral extent of contamination has been defined.

- E. Implement the February 25, 2004 "Revised Interim Remedial Work Plan" prepared by Trans Tech Consultants within 90 days of issuance of this order.
- F. Submit a final Corrective Action Plan (CAP) according to the requirements of Title 23, Division 3, Chapter 16, Article 11, Section 2725 within 60 days of Regional Water Board Executive Officer's determination that Tasks C and D have been completed. The CAP must include a method of addressing the source of contamination including impacted soil that remain in place outside and beneath existing buildings.
- G. Submit a list by of interested party names and mailing addresses, including contiguous landowners and landowners south of Santa Rosa Creek.
- H. Complete any additional work deemed reasonably necessary by the Regional Water Board Executive Officer to abate and cleanup the discharge of waste.
- I. Comply with Santa Rosa Fire Department Regulatory Requirements identified in their February 3, 2005 letter including documentation of stockpiled soil disposal and the completion of additional soil remediation in the vicinity of the former 150-gallon underground storage tank and boiler room piping.
- J. If, for any reason, the Dischargers are unable to perform any activity or submit any documentation in compliance with the work schedule submitted pursuant to this Order and approved by the Executive Officer, the discharger may request, in writing, an extension of time as specified. The extension request must be submitted five days in advance of the due date and shall include justification for this delay including the good faith effort performed to achieve compliance with the due date. The extension request shall also include a proposed time schedule with new performance dates for the due date in question and all subsequent dates dependent on the extension. An extension may be granted for good cause, in which case this Order will be accordingly revised.

Ordered by: _____

Catherine E. Kuhlman
Executive Officer

November 30, 2005