CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

ORDER NO. 94-167

SITE CLEANUP REQUIREMENTS FOR:

MR. BENJAMIN GORDON, MRS. RUTH L. GORDON, MR. DAVID ROSENTHAL AND/OR DAVID ROSENTHAL, INC., MR. SAM (HERSHEL) FORTNER, MRS. MARJORIE FORTNER, B-J DEVELOPMENT CO., MR. BILLY G. YARBROUGH, MR. LOUIS A. HUMPHREY, MR. JAMES H. ROBINSON, MR. TAYLOR E. DRIVER, M.A.F. INC., MR. PHILLIP J. MAFFEI, MS. VICTORIA A. MAFFEI, MR. MARK J. MAFFEI AND MR. STEVEN GRANUCCI:

ORCHID DRY CLEANERS FACILITY
1829 NORTH TEXAS STREET
FAIRFIELD, SOLANO COUNTY, CALIFORNIA

The California Regional Water Quality Control Board, San Francisco Bay Region (hereinafter Regional Board) finds that:

1. The parties Mr. Benjamin Gordon, Mrs. Ruth L. Gordon, Mr. David Rosenthal and/or David Rosenthal, Inc., Mr. Sam (Hershel) Fortner, Mrs. Marjorie Fortner, Mr. Taylor E. Driver, M.A.F. Inc., Mr. Phillip J. Maffei, Ms. Victoria A. Maffei, Mr. Mark J. Maffei and Mr. Steven Granucci, as operators, and B-J Development Co., Mr. Billy G. Yarbrough, Mr. Louis A. Humphrey, Mr. James H. Robinson, as owners of the real property (said operators and owners are herein collectively referred to as "Dischargers") are responsible under state law for the release of and/or cleanup of chlorinated solvents at the former Orchid Dry Cleaners facility located at 1829 north Texas Street, Fairfield, California (the "Site"):
    a. On September 18, 1964 Spring Valley Development Co. leased 1829 Texas Street, a unit in the Wonder World Shopping Center, to Mr. Benjamin Gordon and Mrs. Ruth L. Gordon, who then operated a dry cleaners on the site. Attempts to locate Gordons have not been successful.
    b. According to a letter from Tobin & Tobin, counsel for B-J Development, dated July 8, 1994, Mr. David Rosenthal was the owner of the site between 1966 and 1970. (A business license indicates that David Rosenthal, Inc. may have owned the business.) Mr. Sam (Hershel) Fortner is listed as a partner in the business on a business license dated July 25, 1969.
    c. According to City of Fairfield Business License Department records, Mr. and Mrs. Sam and Marjorie Fortner purchased the business prior to January 28, 1970. They leased the site and operated a dry cleaning facility until 1975.
    d. B-J Development Co. purchased the Wonder World Shopping Center from Spring Valley Development Co. in 1970. B-J Development Co. was a general partnership between Messrs. Billy G. Yarbrough, Louis A. Humphrey and James

H. Robinson. Mr. Humphrey left the partnership in or around 1979 and Mr. Robinson left the partnership in 1994.

e. According to a letter from Tobin & Tobin, dated July 8 , 1994, Mr. Taylor E. Driver entered in to a partnership with Fortners in 1975 and purchased Orchid Cleaners in 1980.

f. According to a letter from Tobin & Tobin, dated July 8 , 1994, Mr. Taylor Driver sold Orchid Cleaners in 1980 and assigned his lease rights for the premises to M.A.F., Inc., and individually to Mr. Phillip J. Maffei, Ms. Victoria A. Maffei, and Mr. Mark J. Maffei who thereafter operated Orchid Cleaners.

g. Mr. Steven Granucci was added as lessee in 1990.

h. In 1992, B-J Development regained the possession of the premises and remains the current property owner.

2. Site Description: The site is located in the former Wonder World Shopping Center near the intersection of North Texas and Oak Streets and consists of approximately 3000 square feet of retail space. The site lies at an elevation of approximately 41 feet above mean sea level in an area of gently rolling hills. The nearest surface water bodies are Union Avenue Creek which lies approximately 500 feet west of the site and Laurel Creek which lies approximately .75 miles east of the site.

3. Site Investigations and Remedial Actions to date:

a. In February 1992 Balbi and Chang Associates reported the results of limited soil and groundwater sampling at the site. Laboratory analysis of soil samples revealed detectable concentrations of 1,2-dichloroethene (1,2-DCE), trichloroethene (TCE), and tetrachloroethene (PCE). Laboratory analysis of one groundwater sample revealed detectable concentrations of 1,2-DCE; TCE; and PCE.

b. In March 1994 Science and Engineering Analysis Corporation (SEACOR) reported the results of a subsurface investigation for the site. The report detailed the results of sampling and analysis from 23 soil borings and monitoring wells. The results of laboratory analysis of soil samples revealed concentrations of methylene chloride (MeCl); trans-1,2-dichloroethene (t-1,2-DCE); cis-1,2-dichloroethene (c-1,2-DCE); TCE; and PCE. A maximum concentration of 170,000 μg/kg PCE was detected in soils near the former location of a drain to the sanitary sewer. Laboratory analysis of groundwater samples revealed concentrations of: t-1,2-DCE; c-1,2-DCE; TCE; and PCE. A maximum concentration of 6,100 μg/ℓ PCE was detected in a grab groundwater sample from a temporary monitoring well.

c. In September 1994 SEACOR reported the results of additional subsurface investigation at the site and presented a recommended remedial action plan. The investigation provided additional information regarding the distribution of pollution in the subsurface. To date, characterization of affected soils has been substantially completed. The remedial action plan recommends excavation and on-site aeration of affected soils.

4. A preponderance of evidence implicates the foregoing operators of the dry cleaning facility and owners of the real property as responsible parties. Dry cleaning facilities routinely use large volumes of PCE in their process. Possible scenarios for the discharge of PCE into the subsurface include:
   a. Surface spillage of PCE.
   b. A study competed in March 1992 by Mr. Victor Izzo of the Central Valley Regional Water Quality Control Board staff, titled "Dry Cleaners - A Major Source of PCE in Groundwater," reports that likely scenarios involve discharges of small volumes of PCE into the sanitary sewer, where PCE has been shown to migrate into the subsurface through small cracks in sewer laterals. Possible sources of small volume discharges could include floor drains and PCE-water separators.

5. The investigations completed to date have not established the extent of vertical pollutant migration at depths greater than 25 feet nor the extent of off-site pollutant migration.

6. The Board adopted a revised Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan) on December 17, 1986. The Basin Plan was amended by the Board on September 16, 1992 and approved by the State Board on April 27, 1993; Office of Administrative Law approval is pending. The Basin Plan and its amendments contain water quality objectives and beneficial uses for groundwater and Laurel Creek, Suisun Bay and contiguous surface waters.

7. The prohibitions, specifications and provisions for this permit are based on the plans and policies of the Basin Plan, EPA water quality criteria, and best professional judgement.

8. At present, there is no known domestic, municipal or industrial use of the groundwater underlying the site. The potential beneficial uses of the groundwater underlying and adjacent to the site include:
   a. Municipal and domestic water supply
   b. Industrial process water supply
   c. Industrial service water supply
   d. Agricultural water supply
   e. Freshwater replenishment to surface water

9. The beneficial uses of Union Avenue Creek, Laurel Creek, Suisun Bay and contiguous surface waters include:
   a. Warm freshwater habitat
   b. Industrial service supply
   c. Navigation
   d. Water contact recreation
   e. Non-contact water recreation
   f. Ocean commercial and sport fishing
   g. Wildlife habitat

h. Preservation of rare and endangered species
i. Fish migration and spawning
j. Estuarine habitat

10. The Discharger has caused or permitted, and threatens to cause or permit waste to be discharged or deposited where it is or probably will be discharged to waters of the State and creates or threatens to create a condition of pollution or nuisance.

11. This action is an Order to enforce the laws and regulations administered by the Board. This action is categorically exempt from the provisions of the CEQA pursuant to Section 15321 of the Resources Agency Guidelines.

12. Interim containment and cleanup measures need to be implemented to alleviate the threat to water quality, public health, and the environment posed by the discharge of pollutants and to provide a substantive technical basis for designing and evaluating the effectiveness of final cleanup measures.

13. Pursuant to Section 13304 of the Water Code, the Dischargers are hereby notified that the Board is entitled to, and may seek reimbursement for, all reasonable costs actually incurred by the Board to investigate unauthorized discharges of waste and to oversee cleanup of such waste, abatement of the effects thereof, or other remedial action, required by this Order including but not limited to the exercise of all other remedies provided in Section 13304 of the Water Code and other provisions of the law.

14. The Board has notified the Dischargers and interested agencies and persons of its intent under California Water Code Section 13304 to prescribe Site Cleanup Requirements for the discharge and has provided them with the opportunity for a public hearing and an opportunity to submit their written views and recommendations.

15. The Board, in a public meeting, heard and considered all comments pertaining to the discharge.

IT IS HEREBY ORDERED, pursuant to Section 13304 of the California Water Code and regulations adopted thereunder, that the Dischargers, their successors and assigns, shall comply with the following:

A. PROHIBITIONS

1. The discharge of wastes or hazardous materials in a manner which will degrade, or threaten to degrade, water quality or adversely affect, or threaten to adversely affect, the beneficial uses of the waters of the State is prohibited.

2. Further significant migration of pollutants through subsurface transport to waters of the State is prohibited.

3. Activities associated with the subsurface investigation and cleanup which will cause significant adverse migration of pollutants are prohibited.

B. **SPECIFICATIONS**

1. The storage, handling, treatment or disposal of soil or groundwater containing pollutants shall not create a nuisance as defined in Section 13050(m) of the California Water Code.

2. The Dischargers shall conduct monitoring and investigatory activities as needed to define the current local hydrogeologic conditions, and the horizontal and vertical extent of soil and groundwater pollution. Should monitoring results show evidence of pollutant migration, additional characterization of pollutant extent may be required.

3. The cleanup goals for source area soils shall be background concentrations for metals and petroleum products and no greater than 1 mg/kg for total volatile organic compounds (VOC's). Alternate soil cleanup goals may be proposed by the Dischargers based on site specific data. If leaving higher levels of pollutants in soils is proposed, the Dischargers must demonstrate that the aforementioned cleanup goal is infeasible, that alternate levels will not threaten the quality of waters of the State, and that human health and the environment are protected. Final cleanup goals for source area soils must be acceptable to the Executive Officer. If any significant concentrations of chemicals are left in the soil, follow-up groundwater monitoring will be required.

4. Final cleanup goals for polluted groundwater, including sources of drinking water, on-site and off-site, shall be background water quality if feasible, in accordance with the State Water Resources Control Board's Resolution No. 68-16. If background water quality goals are not achievable, as determined by data submitted in annual reports, alternative goals may be proposed but must be approved by the Board. Alternate goals may include applicable standards, such as Maximum Contaminant Levels, and shall be based on an evaluation of the cost, effectiveness and a risk assessment to determine the effects on human health and the environment. These goals shall reduce the mobility, toxicity and volume of pollutants.

5. If groundwater extraction and treatment is considered as an alternative, the feasibility of water reuse or disposal to the sanitary sewer must be evaluated. Based on Regional Board Resolution 88-160, the Dischargers shall optimize, with

a goal of 100%, the reclamation or reuse of groundwater extracted as a result of cleanup activities. The Dischargers shall not be found in violation of this Order if documented factors beyond the Dischargers' control prevent the Dischargers from attaining this goal, provided the Dischargers have made a good faith effort to attain this goal. If reuse is part of a proposed alternative, an application for Waste Discharge Requirements may be required. If discharge to waters of the State is part of a proposed alternative, an NPDES permit application must be completed and submitted, and must include the evaluation of the feasibility of water reuse and disposal to the sanitary sewer.

C. PROVISIONS

1. The Dischargers shall perform all investigation and cleanup work in accordance with the requirements of this Order. All technical reports submitted in compliance with this Order shall be satisfactory to the Executive Officer, and, if necessary, the Dischargers may be required to submit additional information.

2. To comply with all of the Prohibitions, Specifications and Provisions of this Order and the Self-Monitoring Program, the Dischargers shall meet the following compliance task and time schedule:

COMPLIANCE TASKS AND DATES

a. **TASK: IMPLEMENTATION OF INTERIM REMEDIAL ACTIONS**

COMPLIANCE DATE: January 10, 1995

Submit a technical report acceptable to the Executive Officer documenting completion of the interim remedial actions described in SEACOR's *Report of Additional Subsurface Investigation and Recommended Remedial Action Plan*, as may be ammended, to limit further migration of pollution to unaffected waters.

b. **TASK: WORKPLAN FOR ADDITIONAL GROUNDWATER POLLUTION CHARACTERIZATION**

COMPLIANCE DATE: February 10, 1995
Submit a technical report acceptable to the Executive Officer containing a proposal to define the horizontal and vertical extent of groundwater pollution.

c. **TASK: COMPLETION OF ADDITIONAL GROUNDWATER CHARACTERIZATION**

COMPLIANCE DATE: **90 days after written approval by the Executive Officer of the workplan described in Provision 2.a.**

Submit a technical report acceptable to the Executive Officer documenting completion of the necessary tasks identified in the technical report submitted for Provision 2.b. Should monitoring results show evidence of pollutant migration, additional characterization of pollutant extent may be required.

d. **TASK: EVALUATION OF INTERIM REMEDIAL ACTIONS**

COMPLIANCE DATE: **May 10, 1995**

Submit a technical report, acceptable to the Executive Officer, which evaluates the effectiveness of all interim remedial actions taken. If the original interim remedial action alternatives being implemented are not proving to be effective in achieving the interim goals, then this report shall include a SUPPLEMENTAL workplan for specific modifications to, or an alternative to, the original interim remedial system, and an implementation time schedule. This report shall include, but will not be limited to:

1. quantification of the amount and type of pollutants removed from the soil and ground water by the interim remediation methods to date;
2. an estimation of the volume and extent of pollution remaining in the soil and groundwater;
3. the measured zone of influence, or capture zone, of ground water and vapor extraction wells;
4. a summary and interpretation of pertinent data collected; and
5. an explanation of how the collected data are being utilized in evaluating the effectiveness of the interim remedial actions and designing the final cleanup alternatives.

(1) **TASK: COMPLETION OF SUPPLEMENTAL INTERIM REMEDIAL ACTIONS**

COMPLIANCE DATE: **Within 90 days of Executive Officer approval of the supplemental workplan submitted for PROVISION 2.d.**

Submit a technical report acceptable to the Executive Officer, documenting completion of tasks necessary to implement the interim remedial activities proposed in the SUPPLEMENTAL workplan submitted for PROVISION 2.d. This report shall include, but will not be limited to, documentation of:

1. installation of all proposed ground water and vapor extraction wells, pumps, conveyance and treatment systems;

2. unexpected or unusual conditions encountered during the installation;
3. any soil removal; and
4. any variations from, or modifications to the approved SUPPLEMENTAL workplan or time schedule determined technically necessary.

e. **TASK: PROPOSED FINAL CLEANUP OBJECTIVES AND FINAL REMEDIAL ACTION PLAN.**

COMPLIANCE DATE: October 10, 1995
Submit a technical report acceptable to Executive Officer containing a final remedial action plan and time schedule. Such report shall include, but will not be limited to:

1. a feasibility study developed in accordance with PROVISION 3 of this Order, to evaluate the alternatives for final remediation;
2. cleanup objectives and levels to be attained and the rationale which shows these cleanup objectives and levels comply with the Basin Plan;
3. the recommended measures necessary to achieve final cleanup levels and objectives;
4. a proposal for treatment and/or disposal of all extracted vapor, ground water and soil;
5. a workplan and implementation time schedule for the proposed final remediation alternatives, including an estimation of the time needed to complete all remediation; and
6. a proposed monitoring and project review plan.

f. **TASK: IMPLEMENTATION OF FINAL REMEDIAL ACTION PLAN**

COMPLIANCE DATE: Within 180 days of Executive Officer approval of the final remedial action plan submitted for PROVISION 2.e.

Submit a technical report acceptable to the Executive Officer, documenting completion of tasks necessary to implement the selected final remediation activities proposed in the workplan submitted for PROVISION 2.e. This report shall include, but will not be limited to, documentation of:

1. installation of all proposed ground water and vapor extraction wells, pumps, conveyance and treatment systems;

2. unexpected or unusual conditions encountered during the installation;
3. any soil removal; and
4. any variations from, or modifications to the approved remediation workplan or time schedule determined technically necessary.

g. **<u>TASK:</u> EVALUATION OF THE FINAL REMEDIAL ACTION PLAN.**

<u>COMPLIANCE DATE:</u> 1 year after implementation of the final remedial action plan described in Provision 2.e. and annually thereafter

Submit a technical report, acceptable to the Executive Officer which evaluates the effectiveness of the final remedial action plan. This report should also include any necessary modifications or additional measures, with an implementation schedule, to fully remediate or contain the polluted groundwater.

3. The submittal of technical reports evaluating all interim and final remedial measures will include a projection of the cost, effectiveness, benefits and impact on public health and welfare, and the environment, of each alternative measure. The reports shall be consistent with the guidance provided by:
   a. State Water Resources Control Board's Resolution No. 68-16, "Statement of Policy with Respect to Maintaining High Quality Waters in California.";
   b. State Water Resources Control Board's Resolution No. 92-49, "Policies and Procedures for Investigation and Cleanup and Abatement of Discharges Under Water Code Section 13304";
   c. Basin Plan for the San Francisco Bay Region.

4. If the Dischargers are delayed, interrupted or prevented from meeting one or more of the compliance dates specified in this Order, the Dischargers shall promptly notify the Executive Officer, and the Board may consider revision to this Order.

5. All hydrogeologic plans, specifications, reports and documents shall be signed by and stamped with the seal of a California registered geologist, a California certified engineering geologist or a California registered civil engineer.

6. The Dischargers shall comply with the Self-Monitoring Program as adopted by the Board and as may be amended by the Executive Officer.

7. The Dischargers shall file a report with the Board at least 30 days in advance of any changes in occupancy or ownership associated with the site described in this Order.

8. The Board will review this Order periodically and may revise the requirements or compliance schedule when necessary.

9. The Dischargers shall be liable, pursuant to Section 13304 of the Water Code, to the Board for all reasonable costs actually incurred by the Regional Board to investigate unauthorized discharges of waste and to oversee cleanup of such waste, abatement of the effects thereof, or other remedial action, required by this Order. If the site addressed by this Order is enrolled in a State Board-managed reimbursement program, reimbursement shall be made pursuant to this Order and according to the procedures established in that program. Any disputes raised by the Dischargers over reimbursement amounts or methods used in that program shall be consistent with the dispute resolution procedures for that program.

10. Pursuant to California Water Code Sections 13304, 13305, 13350, 13385, 13386, and 13387, if the Dischargers fails to comply with this Order or any subsequent amendments, the Executive Officer may request the Attorney General to take appropriate enforcement action against the Dischargers, including injunctive relief; or the Board may schedule a hearing to consider requesting the Attorney General to take appropriate enforcement action against the Dischargers, including injunctive and civil monetary remedies; or the Board may schedule a hearing to administratively impose civil liability not to exceed five thousand dollars ($5,000) for each day this Order is violated.

I, Steven R. Ritchie, Executive Officer, do hereby certify that the foregoing is a full, true and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on November 16, 1994.

Steven R. Ritchie
Executive Officer