CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

ORDER No. R2-2013-0038

RESCISSION OF SITE CLEANUP REQUIREMENTS (ORDER No. 95-111) for:

BERRYMAN PRODUCTS, INC., and
AC LABEL COMPANY

for the property located at:

350 NORTH MONTGOMERY STREET
SAN JOSE, SANTA CLARA COUNTY

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

1. **Regional Water Board Orders:** The Regional Water Board adopted final site cleanup requirements for the site at 350 North Montgomery St., San Jose (Site) on May 24, 1995 (Order No. 95-111). Order No. 95-111 named Berryman Products, Inc. (Berryman) and AC Label Company (AC Label) as dischargers for the Site.

2. **Summary of Investigation and Remediation Activities:** Berryman operated a chemical packaging and distribution company and AC Label operated a label manufacturing company at the Site. Underground storage tanks were used at the Site, including by previous owners. The Site's contaminants are total petroleum hydrocarbons as gasoline, gasoline constituents (benzene, toluene, ethylbenzene, and total xylenes) and chlorinated solvents. The underground storage tanks and ancillary piping were removed along with contaminated soil from 1986 to 1988. A soil vapor extraction system operated from 1991 to 1996 to recover soil vapor contaminants. A groundwater extraction system operated from 1990 to 1996 to recover groundwater contaminants. Hydrogen peroxide was injected into groundwater from 2004 to 2006 to enhance aerobic biodegradation and to break down remaining residual contaminants in groundwater. Groundwater monitoring was conducted from 1988 until 2007 when Regional Water Board staff approved cessation of groundwater monitoring based on a significant reduction of groundwater concentrations to asymptotic levels.

3. **Basis for Rescission:** Rescission of Order No. 95-111 is appropriate because the Site meets the Regional Water Board's low-threat site closure criteria as discussed below:

   a. **Pollutant sources are identified and evaluated.** The Site's contaminants are chlorinated solvents and gasoline constituents. The contamination resulted from surface leaks and spills and releases from underground storage tanks and ancillary pipelines during facility operations.

   b. **The Site is adequately characterized.** The Site was characterized through a series of investigations of soil and groundwater starting in 1986. Over 50 soil borings were drilled and 17 wells were installed. The monitoring wells adequately defined the plume both laterally and vertically.

c. **Exposure pathways, receptors, and potential risks, threats, and other environmental concerns are identified and assessed.** Nearby receptors have been identified and groundwater and vapor mitigation and exposure pathways have been assessed. Shallow groundwater beneath the Site is not currently used for drinking water. The plume does not threaten deeper groundwater aquifers, which are used for drinking water, because a regional aquitard separates the shallow and deeper aquifers.

d. **Pollutant sources are remediated to the extent feasible.** All underground storage tanks have been removed. The Site's contaminants have been remediated by a combination of soil excavation and offsite disposal, soil vapor extraction, groundwater extraction, hydrogen peroxide injection, and natural attenuation.

e. **Unacceptable risks to human health, ecological health, and sensitive receptors, considering current and future land and water uses, are mitigated.** Tetrachloroethene (PCE) in soil gas is slightly above the commercial soil gas Environmental Screening Level of 2,100 micrograms per cubic meter (ug/m^3) in a limited area near SG-4 in the middle of a parking lot. The current maximum PCE soil gas concentration in the SG-4 area is 10,000 ug/m^3. A human health risk assessment was prepared to calculate potential health risks to commercial workers from the inhalation of vapors that could migrate from soil gas to indoor air. The risk assessment calculated a hypothetical cancer risk of 2.7×10^{-6}. This value is slightly above the lower end of the acceptable risk range of 1×10^{-6} to 1×10^{-4} and does not represent an unacceptable risk.

f. **Unacceptable threats to groundwater and surface water resources, considering existing and potential beneficial uses, are mitigated.** The shallow groundwater plume is not impacting any surface water bodies or drinking water wells.

g. **Groundwater plumes are decreasing.** The remediation has reduced groundwater pollution to asymptotic levels. Monitoring results over the 21 years of groundwater monitoring indicate that the groundwater plume has been shrinking steadily in size. Monitoring results from the final round of groundwater sampling, performed in 2007, showed maximum groundwater concentrations of PCE at 0.7 micrograms per liter (ug/L) [maximum contaminant level (MCL) = 5 ug/L], 1,1-dichloroethane at 69 ug/L [MCL = 5 ug/L] , 1,2-dichloroethane at 0.7 ug/L [MCL = 0.5 ug/L], vinyl chloride at 3.0 ug/L [MCL = 0.5 ug/L], and benzene at 1.1 ug/L [MCL = 1 ug/L].

h. **Cleanup standards can be met within a reasonable timeframe.** Natural attenuation is expected to reduce remaining contaminant concentrations in shallow groundwater to below drinking water standards before the groundwater will be used as a source of drinking water.

i. **Risk management measures are appropriate, documented, and do not require further Regional Water Board oversight.** A deed restriction for the Site was recorded on November 18, 2013, that restricts sensitive uses, restricts the use of shallow groundwater, and requires implementation of a soil management plan that addresses appropriate health and safety measures in the event that subsurface activities are performed.

4. **California Safe Drinking Water Policy:** It is the policy of the State of California that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. This Order promotes that policy because maximum contaminant levels (designed to protect human health and ensure that water is safe for domestic use) are and will continue to be met in existing and future supply wells. The remaining groundwater contamination at the Site is in the shallow aquifer, which is not currently used for drinking water and will not be used for drinking water in the foreseeable future. The deeper aquifer underlying the shallow aquifer, which is used for drinking water, meets maximum contaminant levels. A regional aquitard underlying the shallow aquifer will ensure that the deeper aquifer is not threatened by the remaining low concentrations in the shallow aquifer. The deed restriction ensures no contact with the contaminated groundwater.

5. **CEQA**: This action rescinds an order to enforce the laws and regulations administered by the Regional Water Board. Rescission of the order is not a project as defined in the California Environmental Quality Act (CEQA). There is no possibility that the activity in question may have a significant effect on the environment. (Cal. Code Regs., tit. 14 §§ 15378 and 15061, subd. (b) (3).)

6. **Notification**: The Regional Water Board has notified the dischargers and all interested agencies and persons of its intent under California Water Code section 13304 to rescind site cleanup requirements for the discharge and has provided them with an opportunity to submit their written comments.

7. **Public Hearing**: The Regional Water Board, at a public meeting, heard and considered all comments pertaining to this discharge.

IT IS HEREBY ORDERED, pursuant to section 13304 of the Water Code, that Order No. 95-111 is rescinded.

I, Bruce H. Wolfe, 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 December 11, 2013.

Digitally signed by Bruce H. Wolfe
DN: cn=Bruce H. Wolfe, o=SWRCB, ou=Region 2, email=bwolfe@waterboards.ca.gov, c=US
Date: 2013.12.13 11:20:27 -08'00'

Bruce H. Wolfe
Executive Officer