

California Regional Water Quality Control Board
North Coast Region

CLEANUP AND ABATEMENT ORDER NO. R1-2005-0040

FOR

SCHMIDBAUER LUMBER INCORPORATED
1099 WATERFRONT DRIVE
EUREKA, CALIFORNIA

Humboldt County

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

1. Schmidbauer Lumber Incorporated (hereinafter "Schmidbauer" or "Discharger") owns a lumber mill and retail sales operation that is bounded by Kostner Street, Washington Street, Railroad Avenue, and 14th Street in Eureka, California (hereinafter "Site"). Hammond Lumber Company developed the Site as a lumber mill on or around 1948 and operated the mill until 1960. Norris Redwood took over operations of the lumber mill until 1967. In 1968, Georgia Pacific began operating at the Site, and continued until 1972 when the Site was sold to Schmidbauer, who began treating lumber with Noxtane, a wood treatment chemical shortly after the sale. Noxtane contains pentachlorophenol (PCP) and tetrachlorophenol (TCP), and was used at the Site until 1983.
2. On February 25, 1988, Waste Discharge Requirements Order No. 88-16 was issued by the Regional Water Board to Schmidbauer. Prohibition A(1) of Order No. 88-16 states that "There shall be no discharge of wood treatment chemicals or stain control fungicides to surface water or to groundwater."
3. On March 26, 1992, Schmidbauer completed a Notice of Intent for Industrial Storm Water General Permit No. CAS000001 for storm water discharges. On June 6, 1997, Schmidbauer completed a new Notice of Intent for Industrial Storm Water General Permit WQ Order No. 97-030-DWQ.
4. On March 28, 1996, Regional Water Board staff requested that the Facility Storage Statement and all appropriate fees be paid for the aboveground storage tanks located at the Site. On May 17, 1996, Schmidbauer submitted the Facility Storage Statement and fees from 1992.
5. On March 28, 1996, Regional Water Board staff requested the submittal of a workplan

for a hydrogeologic investigation of discharges of petroleum products at the Site. Bunker C fuels had been detected in Site perimeter monitoring wells associated with the adjacent Unocal facility. At the same time, the Department of Toxic Substances Control requested an investigation of discharges of pentachlorophenol. Since 1997 several investigations in connection with the pentachlorophenol investigation have documented discharges of pentachlorophenol, tetrachlorophenol, and trichlorophenol to the environment. The petroleum discharges are associated with a neighboring Pacific Gas and Electric pipeline that extends from a Unocal Terminal to the Pacific Gas and Electric facility. Laboratory analyses from groundwater samples collected at the Site have detected pentachlorophenol at 9,800 parts per billion (ppb), tetrachlorophenol at 9,900 ppb, and trichlorophenol at 9.3 ppb. The water quality objectives for pentachlorophenol, tetrachlorophenol, and trichlorophenol are all 1 ppb. Schmidbauer is hereinafter referred to as the Discharger.

6. During 1997 Consultants for the Discharger submitted a workplan and three addendums prior to completing the 1996 requested fieldwork described in Finding No. 5 above. Borings were installed in November of 1997. The Report on Subsurface Investigation was submitted on May 22, 1998.
7. On December 10, 1998, the Work Plan for Monitoring Well Installation was submitted. Monitoring wells were installed on March 1, 1999. On August 30, 1999, the Results of Investigation report detailing the March 1, 1999 well installations was submitted.
8. On February 18, 2000, the Department of Toxics Substances Control (DTSC) issued a letter requesting a workplan for the installation of deeper wells, dioxin sampling, and indicating the both the DTSC and Regional Water Board were displeased with the slow pace of investigation at the Site.
9. On September 12, 2000 a Work Plan for Installation of Peripheral Monitoring Wells was submitted. The Report of Installation of Monitoring Wells was submitted on March 29, 2001.
10. On December 28, 2000, the Regional Water Board Executive Officer issued Cleanup and Abatement Order No. R1-2000-95 requiring specific tasks to be undertaken in the investigation of the Site. This revised Order reflects the progress of the investigation and required additional tasks.
11. During April 2001, DTSC staff held a meeting with the Discharger and their consultant to discuss the significant comments on the documents. A working group was established to expedite document submittals.
12. On August 10, 2001, a conference call took place between DTSC staff, Regional Water

Board staff, and the consultant for the Discharger. Two significant issues discussed during the call were the rapid decline in contaminants and the anomalous groundwater gradient in monitoring well MW-2.

13. On April 29, 2002, a Workplan for Installation of Additional Deep Monitoring Wells and Additional Shallow Borings was submitted. Between July 19, 2002, and March 26, 2004, three amendments to the workplan and a meeting between all parties to discuss the workplan proposal took place. On May 13, 2003, DTSC staff and Regional Water Board staff concurred with the workplan.
14. On November 21, 2003, the Results of Monitoring Well Installation and Drilling of Additional Borings (Report) was submitted. The document was classified as insufficient by DTSC staff and Regional Water Board staff on January 2, 2004. An additional monitoring well was installed as originally proposed in late January 2004. A revised Report was submitted on April 12, 2004. The DTSC issued a letter on July 30, 2004, requesting a revised Report as the document required extensive revisions. A third Report was submitted on October 29, 2004.
15. On June 23, 2004, the Regional Water Board rescinded Waste Discharge Requirements Order No. 88-16.
16. The Site is located adjacent to Humboldt Bay, and overlies deposits of fill, bay muds, and sands. Shallow groundwaters underlie the Site less than three feet below the ground surface (bgs).
17. The beneficial uses of the areal groundwaters include:
 - a. domestic water supply
 - b. agricultural supply
 - c. industrial supply
18. The beneficial uses of Humboldt Bay include:
 - a. industrial service supply
 - b. navigation
 - c. water contact recreation
 - d. non-contact recreation
 - e. ocean commercial and sport fishing
 - f. saline water habitat
 - g. wildlife habitat
 - h. preservation of rare and endangered species
 - i. marine habitat
 - j. fish migration
 - k. fish spawning area

I. shellfish harvesting

10. The Discharger named in this Order has caused or permitted, causes or permits, 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. The discharge and threatened discharge of contaminants has unreasonably affected water quality in that the discharge or threatened discharge is deleterious to the above described beneficial uses of State waters, and has impaired water quality to a degree which creates a threat to public health and public resources and therefore, constitutes a condition of pollution or nuisance. These conditions threaten to continue unless the discharge or threatened discharge is permanently cleaned up and abated. In addition, the discharge of PCP and TCP to areal groundwater was a violation of Waste Discharge Requirements Order No. 88-16.
11. Discharge prohibitions contained in the Basin Plan apply to this Site. State Water Resources Control Board Resolution No. 68-16 applies to this Site. State Water Resources Control Board Resolution No. 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" (CWC).
12. 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 objectives. Narrative water quality objectives are interpreted through application of available scientific information and numerical limits are then derived from such information. The following table sets out the relevant protective water quality objectives, derived from the narrative water quality objectives in the basin plan, for surface and groundwaters at the Site:

Constituent of Concern	Background Level ug/l	Water Quality Objective ug/l	Reference for Objective
Pentachlorophenol	<0.2	1.0	California DHS MCL, Title 22 of the California Code of Regulations (CCRs) Section 64444 is 1 ug/l
Tetrachlorophenol	<0.2	1	Taste and odor threshold per US EPA Red Book applied to the TASTE AND ODOR water quality objective in the Basin Plan
Trichlorophenol	<0.2	1	Taste and odor threshold per US EPA Red Book applied to the

Constituent of Concern	Background Level ug/l	Water Quality Objective ug/l	Reference for Objective
			TASTE AND ODOR water quality objective in the Basin Plan

13. Reasonable costs incurred by Regional Water Board staff in overseeing cleanup or abatement activities are reimbursable under Section 13304(c)(1) of the CWC.
14. 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 discharges at the Site shall comply with the California Environmental Quality Act (Public Resources Code Section 21000 et seq. ("CEQA")).
15. 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 the CEQA in accordance with Sections 15308 and 15321, Chapter 3, Title 14 of the CCRs.
16. 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 Cleanup and Abatement Order No. R1-2000-95 is rescinded, and that pursuant to CWC Sections 13267(b) and 13304, the Discharger shall cleanup and abate the discharge and threatened discharge of pentachlorophenol and all other wastes forthwith and shall comply with the following provisions of this Order:

1. The Discharger shall conduct the investigation and cleanup tasks under the direction of a California registered geologist or registered civil engineer experienced in the area of surface water and groundwater pollution cleanup.
2. By June 30, 2005, the Discharger shall submit a brief report in a form satisfactory to the

Executive Officer of the analysis of the previously calculated groundwater gradients. The analysis shall include at a minimum:

- a. an analysis of the influence on the groundwater gradient flow direction from each individual well used in the calculation of the groundwater flow;
 - b. an analysis of the placement of the current wells with respect to identification of the extent of the groundwater plume of pentachlorophenol;
 - c. an analysis of any areas that may need to be investigated further.
3. By July 30, 2005, the Discharger shall submit a workplan for concurrence by the Executive Officer for the investigation of the complete vertical and horizontal extent of the soil and groundwater plumes surrounding pentachlorophenol source and/or discharge areas. In addition, the workplan needs to include sufficient data collection in order to adequately resolve the following issues:
 - a. how the significant reduction in pentachlorophenol in groundwater has occurred;
 - b. why significantly lower groundwater elevations are observed in monitoring wells MW-2, MW-8 and MW-9;
 - c. define the horizontal and vertical extent of chlorophenols in soil and groundwater.
4. Any and all workplans submitted for concurrence by the Executive Officer shall be implemented within 15 days of concurrence with the workplan.
5. By January 2, 2006, the discharger shall submit a final Remedial Investigation Report (RI) presenting information gathered pursuant to Provisions 2 and 3, above and documenting complete horizontal and vertical definition of contamination related to pentachlorophenol discharges at the site.
6. Within 45 days of the Executive Officer's concurrence with the final RI the dischargers shall submit a combined Feasibility Study and draft Remedial Action Plan (FS/draft RAP) evaluating all appropriate cleanup and abatement alternative for the site, summarizing each of the remedial alternatives considered, and describing the preferred remedies to address final soil and groundwater cleanup including a post remedial action monitoring program.
7. The final Remedial Action Plan (RAP) shall be submitted for concurrence by the Executive Officer within 30 days after all comments are received from interested parties, the public, and other agencies. The RAP shall include the time schedule for implementation.
8. The Discharger shall comply with the provisions of Monitoring and Reporting Program No. R1-2001-15 which is included as Attachment 1 to this Order.
9. The Discharger shall be responsible, pursuant to California Water Code Section 13304, to

the Regional Water Board for all reasonable costs actually incurred by the Regional Water 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 Water 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 discharger over reimbursement amounts or methods used in that program shall be consistent with the dispute resolution procedures for that program. Otherwise, the failure to timely remit payment according to invoicing instructions shall be considered a violation of this Order.

10. If, for any reason, the Discharger is unable to perform any activity or submit any documentation in compliance with the schedule set forth herein or in compliance with any work schedule submitted in compliance with this Order and concurred in or revised by the Executive Officer, the Discharger may request, in writing, an extension of the time specified. The extension request must be submitted five days in advance of the due date and shall include justification for the delay including a description of the good faith effort performed to achieve compliance with the due date. The extension request shall also include a proposed time schedule with a new performance date for the due date in question and all subsequent dates dependent on the extension. A written extension may be granted for good cause, in which case this Order may be revised.
11. This Order in no way limits the authority of this Regional Water Board to institute additional enforcement actions or to require additional investigation and cleanup at the facility consistent with CWC. This Order may be revised by the Executive Officer as additional information becomes available.
12. Failure to comply with the terms of this Order may result in enforcement under the CWC. Any person failing to provide technical reports containing information required by this Order by the required date(s) or falsifying any information in the technical reports is, pursuant to CWC Section 13268, guilty of a misdemeanor and may be subject to administrative civil liabilities of up to one thousand dollars (\$1,000.00) for each day in which the violation occurs. 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 or ten dollars (\$10) per gallon of waste discharged.

Ordered by _____
Catherine E. Kuhlman
Executive Officer

May 12, 2005

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