

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
NORTH COAST REGION
CLEANUP AND ABATEMENT ORDER NO. R1-2004-0063

For

(Former) Marlow Center One-Hour Martinizing
Stephanie and Joseph O'Neill

and

D/Marlow Partners
Alfonso A. D'Argenzio
Richard D'Argenzio
Raymond D'Argenzio
Rose L. D'Argenzio
Dino D'Argenzio

1791 Marlow Road
Santa Rosa, California

Sonoma County

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

1. D/Marlow Partners owns and operates a shopping center on the parcel identified as APN 152-110-011, located at 1791 Marlow Road, Santa Rosa, Sonoma County, California, hereinafter the "Site" (**Attachment A**). D/Marlow Partners has owned the property since October 9, 1984. The D/Marlow Partners is a California registered Limited Partnership that consists of the following general partners: Alfonso A. D'Argenzio, Richard D'Argenzio, Raymond D'Argenzio, Rose L. D'Argenzio, and Dino D'Argenzio.
2. D/Marlow Partners leased Unit #10 at the Site to Stephanie and Joseph O'Neill from May 1985 through October 1998. Stephanie and Joseph O'Neill operated the "Marlow Center One-Hour Martinizing" dry cleaning business at the Site from approximately May 1985 through October 1998. Stephanie and Joseph O'Neill and the D/Marlow Partners are hereinafter referred to as "the Dischargers."
3. Additional responsible parties may exist, including past owners and/or operators. Continued review of the historical record, facts, data and information may result in additional parties being named as Dischargers, in which case this Order would be revised.
4. Marlow Center One-Hour Martinizing operated dry cleaning equipment that utilized cleaning solvents, including tetrachloroethylene (PCE), at the Site. Business operations at the site included the operation of a wet-to-dry open-air clothes transfer system until 1988. In 1988, the wet-to-dry transfer system was replaced with a closed-loop system, which operated at the site until October 1998. The method of waste dry-cleaning solvent disposal during this time is not documented. During this time, the washing machine component of the dry-cleaning system discharged into the sanitary sewer.

5. In July 1997, American Auditing & Indemnity Group, Inc. reported the results of a Phase I and Phase II Environmental Site Assessment that was conducted to investigate potential soil and groundwater contamination associated with the dry-cleaning operations at the Site. During this investigation, five out of eight soil samples collected from three soil borings at the Site revealed positive results for PCE. From July 1997 through October 1997, supplemental investigations conducted by Harris & Lee Environmental Sciences on behalf of the D/Marlow Partners confirmed the presence of PCE in soil and in groundwater at the Site.
6. On July 18, 2000, Regional Water Board staff requested the Dischargers to submit a plan containing a scope of work to define the horizontal and vertical extent of soil and groundwater contamination. On November 8, 2000, D/Marlow Partners submitted a work plan. On January 12, 2001, D/Marlow Partners submitted another work plan for a revised scope of work. In August and September 2001, passive soil gas surveys were conducted at the site. In October 2001, three groundwater monitoring wells were installed at the site. In November 2001, three exploratory Cone Penetration Test borings were advanced to define the vertical extent of contamination.
7. In a letter dated March 1, 2002, Regional Water Board staff requested the dischargers to submit by May 15, 2002 a work plan to define the lateral extent of groundwater contamination at the site and a remedial action plan to abate all sources of continuing groundwater contamination and to prevent further migration of contaminated groundwater. On October 30, 2002, a work plan and Remedial Action Plan (RAP) were submitted.
8. In a letter dated February 20, 2003, Regional Water Board staff concurred with seven investigative tasks proposed in the RAP, including the installation of three of four additional monitoring wells proposed to define the lateral extent of groundwater contamination. Staff requested an alternative proposal for the location of a fourth proposed monitoring well, and the submittal of a Report of Waste Discharge adequately describing the remedial proposal. The requested information has not yet been submitted. At this time, the horizontal extent of PCE in groundwater has not been fully defined.
9. PCE is a volatile organic compound that adversely impacts the beneficial uses of groundwater used for drinking water supply primarily because of its toxicity. The U. S. Environmental Protection Agency and the California Department of Health Services have established 5 parts per billion (ppb) of PCE as the Primary Maximum Contaminant Level (MCL) in public water supplies. PCE is a carcinogenic substance that can cause other adverse human health effects. The California Office of Environmental Health Hazard Assessment has established a California Public Health Goal for PCE at 0.6 ppb based on its cancer risk. PCE contamination can also adversely affect the beneficial uses surface waters because it is toxic to freshwater aquatic organisms. PCE has been detected in groundwater at the Site at concentrations of up to 260 ppb.
10. The Site overlies shallow groundwater that is less than ten feet below ground surface. Site groundwater may be in hydraulic continuity with surface waters of Steele Creek, located approximately 400 feet south of the Site. PCE has migrated through shallow groundwater to at least 150 feet south of the Site. The down-gradient extent of PCE in groundwater has not yet been determined.

11. The beneficial uses of areal groundwater include:
 - a. domestic water supply
 - b. agricultural supply
 - c. industrial supply
12. The beneficial uses of areal surface waters include:
 - a. municipal & domestic supply
 - b. agricultural supply
 - c. industrial process supply
 - d. groundwater recharge
 - e. water contact recreation
 - f. commercial and sport fishing
 - g. cold freshwater habitat
 - h. wildlife habitat
 - i. migration of anadromous fish
 - j. fish spawning area
 - k. estuarine habitat
 - l. aquaculture
 - m. habitat for rare and endangered species
13. The Dischargers named in this Order have caused or permitted, cause or permit, or threaten to cause or permit waste to be discharged 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. 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.
14. The California Water Code (CWC), and regulations and policies developed thereunder, require cleanup and abatement of discharges and threatened discharges of waste to the extent feasible. Cleanup to background levels is the presumptive standard. Any proposed alternative that will not achieve cleanup to background levels (i.e., water quality objectives), must be supported with evidence that it is technologically or economically infeasible to achieve background levels, and that the pollutant will not pose a substantial present or potential hazard to human health or the environment for the duration of the exceedence of background levels (SWRCB Res. 68-16 and 92-49, 23 CCR section 2550.4, subds. (c)& (d).)
15. Water quality objectives exist to ensure the beneficial uses of water. Several beneficial uses of water exist, and the most stringent objective for protection of all beneficial uses is selected as protective for water quality. A listing of the water quality objectives for waters of the State impacted by discharges from the Site is included as **Attachment B** to this Order.

16. 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."
17. Cleanup and abatement activities remain to be performed at the Site. These activities include: a) remedial investigation to completely define the extent of contamination; b) implementation of appropriate cleanup and abatement activities; and c) monitoring. The remaining activities require a schedule for completion. Therefore, this Order specifies the cleanup and abatement activities required to be conducted by the Dischargers and it contains the schedule for completion of required activities.
18. Reasonable costs incurred by Regional Water Board staff in overseeing cleanup or abatement activities are reimbursable under Section 13304(c)(1) of the CWC.
19. 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 ("CEQA") (Public Resources Code Section 21000 et seq).
20. 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 Sections 15308 and 15321 Title 14 of the California Code of Regulations.
21. 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.
22. 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 CWC and Title 23, California Code of Regulations, Section 2050. The petition must be received by the State 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.

THEREFORE, IT IS HEREBY ORDERED that pursuant to CWC Sections 13267(b) and 13304, the Dischargers shall cleanup and abate the discharge and threatened discharge of volatile organic compounds at the Site and shall comply with the provisions of this Order:

1. The Dischargers shall conduct all work under the direction of a California registered engineer or geologist experienced in pollution investigation and cleanup and in accordance with all local requirements. All necessary permits shall be obtained.
2. The Dischargers shall, within forty-five (45) days after the date of this Order, submit to the Executive Officer for concurrence a work plan for completing the investigation and cleanup of soil and groundwater contamination at the site. The work plan shall include a scope of work to fully define the horizontal and the vertical extent of contamination in both soil and in groundwater.
3. The Dischargers shall submit to the Executive Officer for concurrence, within forty-five (45) days after the date of this Order, a schedule for completing the remedial investigation and for submitting an acceptable Remedial Action Plan. The schedule must identify any additional site characterization needed for the remedial plan development. If the Dischargers propose to implement the October 2002 Remedial Action Plan previously submitted for the Site, a timeframe for its implementation must be included in the schedule.
4. If the Dischargers do not intend to implement the October 2002 Remedial Action Plan proposed for the Site, a revised Feasibility Study and Remedial Action Plan (FS/RAP) must be submitted **within sixty (60) days after the date of this Order**. The revised FS/RAP shall identify any additional investigative tasks needed at the site. The revised FS/RAP shall also include a schedule for completing the following tasks:
 - a) activities to investigate and remove of all sources of continuing groundwater contamination in areas of suspected chemical releases;
 - b) actions to prevent migration of contaminants;
 - c) implementation of the selected remedial technology for achieving water quality objectives in groundwater at the site.
5. If the selected remedial alternative involves the injection of any chemical agents into the subsurface, the FS/RAP shall include a complete Report of Waste Discharge with the appropriate filing fee.
6. After Executive Officer concurrence with the FS/RAP the Dischargers shall implement the work plan in accordance with the schedule contained in the FS/RAP.
7. The Dischargers shall conduct groundwater monitoring and sampling of groundwater at the site in accordance with the provisions contained in Monitoring and Reporting Program No. R1-2004-0063. The Dischargers shall also comply with the reporting requirements contained in Monitoring and Reporting Program No. R1-2004-0063.
8. The Dischargers shall promptly pay, in accordance with the invoicing instructions, all invoices for Regional Water Board oversight, including associated oversight costs for the review by qualified outside agency staff of necessary documents associated with any the ecological and human health risk assessment developed for the site.

9. 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 Dischargers may request, in writing, an extension of the time as specified. The extension request must be submitted at least five days in advance of the due date sought to be extended and shall describe the justification for the delay including the good faith effort performed to achieve compliance with the due date. An extension may be granted for good cause, in which case this Order will be revised.
10. 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.

Ordered by _____
Catherine E. Kuhlman
Executive Officer
July 20, 2004