

California Regional Water Quality Control Board
North Coast Region

CLEANUP AND ABATEMENT ORDER NO. R1-2002-0106

FOR

Alan and Melissa Spencer
1730 Fourth Street
Santa Rosa

Sonoma County

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

1. Alan and Melissa Spencer own property at 1730 Fourth Street in Santa Rosa, California (Assessor's Parcel Number 009-121-050) (hereinafter Site). The Von Tillow Burbank Cleaners occupied the Site from as early as the 1920s to the late 1980s. In 1982, the Von Tillow family sold the property and business to Everett H. Buckley and Barbara J. Henry who continued to operate the dry cleaning business at the Site. In 1986, Alan and Melissa Spencer purchased the property and business and leased the business back to Everett Buckley. Information available to Regional Water Board staff including business fictitious name records suggests that the business was operated after Mr. Buckley's vacancy and may have included Pat Knapp, Elmer Knapp and Michael Overstreet. The whereabouts of the operators after Mr. Buckley's occupancy are unknown. Alan Spencer and Melissa Spencer are hereinafter collectively referred to as the Dischargers.
2. 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.
3. In August 1985, Regional Water Board staff inspected the Site and was informed that three underground storage tanks were present including a 500-gallon tank storing hydrocarbon solvent (Shell 140-F), a 1000-gallon fuel oil tank for the boiler and a 500-gallon gasoline tank. The gasoline tank was reportedly not in use. The solvent tank was manually filled from 55-gallon drums using a funneling device.
4. In April 1991 a written anonymous complaint was submitted to the City of Santa Rosa indicating 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. 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 discovered.
 - 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 remain 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 his 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.
5. On November 16, 2000, two underground storage tanks (one fuel oil and one cleaning solvent) were removed from the Site. A gasoline tank was not found or removed on that date. Soil samples obtained 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 hydrocarbons detected in the diesel range were Stoddard solvent. Regional Water Board staff observed a sheen on water in the tank pit, stained soil, and strong odors. Perchloroethylene (PCE), a common dry cleaning solvent, was tested for and was not detected. The results were consistent with historical records indicating that stoddard solvent was the dry cleaning compound used at the Site.
6. In January 2001, Regional Water Board staff requested the submittal of a work plan to adequately characterize and define the extent of contamination. A work plan was submitted on March 2, 2001, to investigate the presence of a gasoline tank, perform a sensitive receptor survey, drill five soil borings and install four groundwater-monitoring wells adjacent to Santa Rosa Creek. A status report regarding the presence or absence of a third tank was requested by April 30, 2001. The status report was not provided.
7. In August 2001, the Executive Officer of the Regional Water Board required, pursuant to section 13267 of the California Water Code, the submittal of a status report regarding the suspected third tank and the report of findings within 45 days of August 10, 2001.
8. On October 22, 2001, the results of a geophysical survey to investigate the presence of a third underground storage tank were submitted. The sensitive receptor survey and drilling work outlined in the work plan submitted on March 2, 2001, were not conducted.

9. On February 7, 2002, Mr. Spencer's environmental consultant notified Regional Water Board staff that drilling was scheduled for March 1, 2002. On February 27, 2002, Mr. Spencer's environmental consultant notified Regional Water Board staff that Mr. Spencer cancelled the drilling work.
10. Additional responsible parties may exist, including past owners and/or operators. Continued review of the historical record, facts and data may result in additional parties being named in this Order as Dischargers, in which case this Order would be revised.
11. 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).
12. 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. hydropower generation
 - g. water contact recreation
 - h. non-contact water recreation
 - i. commercial and sport fishing
 - j. warm freshwater habitat
 - k. cold freshwater habitat
 - l. wildlife habitat
 - m. migration of aquatic organisms
 - n. spawning, reproduction, and/or early development.
13. 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.
14. 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.

15. 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."
16. 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)).
17. 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.
18. 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. Implement the March 1, 2001, "Work Plan Soil and Ground-Water Investigation" prepared by Trans Tech Consultants **within 30 days of issuance of this Order**. The door-to-door survey must be conducted for the area with a radius of 1000 feet of the Site. All water supply wells within 500 feet of the site must be sampled and tested for total petroleum hydrocarbons as Stoddard solvent, TPHg, TPHd, and benzene, toluene, ethylbenzene, and xylenes (BTEX).
- C. Submit the report of findings **within 45 days of issuance of this order**. The sensitive receptor survey portion of the report must include a map showing those properties surveyed within 1000 feet of the Site, the property owners names, the location of any water supply wells and the analytical results of all wells tested. The report must also include an adequate work plan of any additional effort necessary to define the extent of contamination.
- D. Continue with Task C until the lateral and vertical extent of soil and groundwater contamination has been defined.
- E. Conduct interim remediation as necessary and as directed by the Regional Water Board Executive Officer to abate or correct the actual or potential effects of an unauthorized release and eliminate the threat and/or impact to Santa Rosa Creek.

- F. Submit a 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 soil impacted with petroleum hydrocarbons.
- 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. 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 _____

Susan A. Warner
Executive Officer

October 17, 2002