

California Regional Water Quality Control Board  
North Coast Region

Complaint Order No. R1-2000-41

for

ADMINISTRATIVE CIVIL LIABILITY

In the matter of

SHILOH GROUP LLC  
FRED ZURILGEN III, INC.  
FRED ZURILGEN  
RALPH RASLEY  
and  
REDWOOD SANITARY SERVICE

For

THE UNPERMITTED DISCHARGE OF WASTE AND VIOLATIONS  
OF CLEANUP AND ABATEMENT ORDER NO. 99-14 AND SECTION  
13385 OF THE CALIFORNIA WATER CODE

Town of Windsor

Sonoma County

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

1. The Shiloh Group LLC owns property at 930 Shiloh Road, Windsor, California (hereinafter the site). Fred Zurilgen III, Inc., leases the site. Zurilgen and Ralph Rasley, dba Redwood Sanitary Service, operate a septage and chemical toilet waste treatment facility at the site. The operation includes a press to separate solids from wastewater. The resulting solid waste is disposed at a landfill located in Marin County, California, while the liquid waste is disposed at the City of Santa Rosa wastewater treatment plant.
2. On April 30, 1999, a fire occurred at the Redwood Sanitary Service facility located at 930 Shiloh Road, Windsor, California. The fire incident caused the discharge of at least 20,000 gallons of waste including, but not limited to, septage, hydrated lime, Premier Plus® chemical toilet deodorant, and associated

disinfectants and chemicals to Pruitt Creek. Pruitt Creek is tributary to Pool Creek, thence to Windsor Creek, Mark West Creek and ultimately the Russian River. Fred Zurilgen III, Inc., Fred Zurilgen, Ralph Rasley, Redwood Sanitary Service, and The Shiloh Group LLC are hereinafter known as the dischargers.

3. The discharge of these wastes affected the beneficial uses of Pool and Pruitt creeks, and caused the loss of fish and other aquatic life in the affected creeks. The RWQCB may impose civil liability for these unpermitted discharges under Section 13385(a)(1) of the California Water Code.
4. The discharge caused the following water quality objectives contained in the Water Quality Control Plan for the North Coast Region, (3-2.00-3.00) to be exceeded in the receiving waters:

**SECTION 3 WATER QUALITY OBJECTIVES  
OBJECTIVES FOR INLAND SURFACE WATERS, ENCLOSED BAYS, AND  
ESTUARIES**

Turbidity: Turbidity shall not be increased more than 20% above naturally occurring background levels. Allowable zones of dilution with which higher percentages can be tolerated may be defined for specific discharges upon the issuance of discharge permits or waiver thereof.

pH: Changes in normal ambient pH levels shall not be depressed below 6.5 nor raised above 8.5 (Table 3-1 p. 3-7.00).

Dissolved Oxygen: Changes in dissolved oxygen may not be depressed below 7.5 nor raised above 10.0.

Bacteria: The bacteriological quality of waters of the North Coast Region shall not be degraded beyond natural background levels.

Toxicity: All waters shall be maintained free of toxic substances in concentration that are toxic to, or that produce detrimental physiological responses in human, plant, animal, or aquatic life.

5. The following facts are the basis for the alleged violations in this matter:
  - a) On April 30, 1999 approximately 20,000 gallons of raw sewage from two 10,000 gallon holding tanks and 2,000 gallons of hydrated lime mixed with Premier Plus® chemical toilet deodorant from a Polypropylene tank were released into storm water drains that discharge into Pruitt Creek.
  - b) The waste discharged into Pruitt Creek, flowed into Pool Creek, and migrated through the Windsor golf course for approximately 4,000 feet downstream.

- c) The discharge impacted the beneficial uses of the creeks including:
    - 1) domestic supply
    - 2) non-contact water recreation
    - 3) cold freshwater habitat
    - 4) wildlife habitat
    - 5) fish migration
    - 6) fish spawning
  - d) Immediately after the discharge was reported, NCRWQCB staff observed and documented dead fish in Pool Creek. Water samples collected within 24 hours of the discharge were field tested by NCRWQCB staff with a centrifuge method that indicated that there was no biological activity in the creek.
  - e) On May 3, 2000 and May 7, 2000, the California Department of Fish and Game (DFG) staff inspected the spill site and investigated the incident. DFG staff reports that the discharge and subsequent closure of Pool Creek inhibited juvenile steelhead trout (listed as Threatened under the Federal Endangered Species Act) from migrating out of the creek to the ocean.
  - f) Chemical analyses of the discharged material show that it contained the following chemicals: benzoic acid, chlorinated hydrocarbons, phenols, manganese, barium, ammonia, and potassium.
  - g) The discharge affected the receiving waters by (1) raising the pH to 9.67, (2) increasing the fecal coliform to 1,600 MPN/100 ml, and (3) depleting the dissolved oxygen content to 0.17 mg/l.
  - h) As a result of the discharge, 1.5 million gallons of wastewater were created and impounded by damming Pool and Pruitt creeks, a necessary response to contain the spill.
  - i) Pool Creek was impacted by the discharge from April 30, 1999, to May 20, 1999 when the flows in Pruitt and Pool creeks were returned to normal, approximately 21 days after the release occurred.
6. On May 6, 1999 NCRWQCB issued Cleanup and Abatement Order 99-14 (CAO 99-14). On August 11, 1999 a Notice of Violation of CAO 99-14 was issued by the Executive Officer of NCRWQCB. Staff estimates that CAO 99-14 was violated as follows:
- a) Section 3: "The dischargers shall submit a sampling plan by May 6, 1999, to assess the impact of the waste discharges on sediments in Pruitt and Pool Creeks, and implement the plan within 24 hours of concurrence with the plan by the Executive Officer."

NCRWQCB staff extended the submission date to May 11, 1999. The sampling plan was submitted, approved and the sampling conducted, all on May 17, 1999. Results were submitted by facsimile to the NCRWQCB as the laboratory made them available. The delay in implementation is a six-day violation of CAO 99-14.

b) Section 7: “The dischargers shall submit a plan by May 7, 1999 to assess the residual waste discharged at the site of the fire, and the threat to groundwater and surface water quality from such wastes, and shall implement the plan within 24 hours of the concurrence of the Executive Officer.”

NCRWQCB staff twice extended the deadline for submitting the plan to assess the site of the fire, resulting in a due date of June 4, 1999. The plan was submitted on June 2, 1999 and revised on June 18, 1999. Sampling was conducted October 4, 1999 and analytical data was submitted to the NCRWQCB on November 21, 1999. NCRWQCB staff requested additional sampling at the fire site, and this sampling was conducted on March 3, 2000. Analysis of this work was submitted to the NCRWQCB on March 14, 2000.

The Notice of Violation letter dated August 11, 1999 stated the plan had been approved; therefore, the plan should have been implemented 24 hours after August 11, 1999. The plan was implemented on October 4, 1999, fifty-six days after the Notice of Violation letter.

c) Section 9: “The dischargers shall submit by May 21, 1999, a detailed spill incident response report which contains, but is not limited to:

- a chronology of spill response actions from the initial response through May 17, 1999
- an estimate of the source and volumes of spilled materials
- locations of where spilled materials came to be deposited
- location, time and durations of pumping and other cleanup activities
- volumes of wastes removed, and documentation of disposal for all collected materials and where the materials[sic]”

This submission deadline was extended twice to July 9, 1999. A report prepared by the Windsor Fire Protection District Chief Ron Collier was submitted on August 18, 1999 in response to this item. This document did not contain all the items required in section 9. However, after staff requested the additional information, an addendum was submitted in a report dated March 14, 2000. Therefore, the discharger was in violation of the CAO from July 10, 1999 to March 13, 2000 or 247 days.

7. Staff costs for responding to the spill and overseeing the cleanup and abatement activities of the spill are estimated to be approximately \$40,000. This amount includes staff personal services and laboratory analytical costs.

### **Proposed Civil Liability**

8. Section 13350(a)(1) of the California Water Code provides for the imposition of civil liabilities against any person who intentionally or negligently violates any cleanup and abatement order.
9. Section 13350(d)(1) provides that the civil liabilities may be administratively imposed by a Regional Board in an amount which shall not exceed five thousand dollars (\$5,000), but shall not be less than five hundred dollars (\$500) for each day in which the discharge occurs and for each day the cleanup and abatement order is violated. The discharger was in violation of the CAO from July 10, 1999 to March 13, 2000 or 247 days with a maximum of liability of five thousand dollars (\$5,000) a day for the total of \$1,235,000, and a minimum liability of \$123,500.
10. Section 13385 (c) provides that the civil liabilities may be administratively imposed by a Regional Board in the amount not to exceed ten thousand dollars (\$10,000) for each day in which the violation occurs, and ten dollars (\$10) for each gallon over 1,000 gallons of waste that was discharged but not cleaned up. Pool Creek was impacted by the discharge from April 30, 1999 to May 20, 1999, when normal flow was returned to Pruitt and Pool Creeks.
11. In determining the amount of the civil liability the NCRWQCB took into account the nature, circumstances, extent, and gravity of the violation; whether the discharge was susceptible to cleanup or abatement; the degree of toxicity of the discharge; and with respect to the violator, the ability to pay, the effect on ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic savings, if any, resulting from the violation and such other matters as justice may require.
12. The dischargers have reimbursed the other responding agencies (including the Sheriff's Department, Fire Department, and Department of Fish and Game) for their costs in responding to the spill incident. In addition, some of the dischargers, in pleading no contest to violations of the Hazardous Waste Control Law, have paid restitution to several agencies, and have paid \$25,000 in mitigation to the County Fish and Wildlife Advisory Commission. Further, the discharger has commenced an industry education effort on compliance with environmental requirements. Therefore, pursuant to Section 13350(g) of the California Water Code, this ACL Complaint seeks only the costs incurred by the Regional Water Quality Control Board in responding to and overseeing cleanup of the spill.

13. The issuance of a Complaint for Administrative Civil Liability is not subject to the California Environmental Quality Act, pursuant to Section 15321(a)(2) of Title 14, California Code of Regulations (Enforcement action).

Unless waived, a hearing on this matter will be held before the Regional Water Board on July 27, 2000 in Willits, California. You or your representatives will have an opportunity to address and contest the allegations in the Complaint and the imposition of civil liabilities before the Regional Water Board. An agenda showing the time set for the hearing will be mailed to you not less than 10 days before the hearing.

At the hearing the RWQCB will consider whether to affirm reject, or modify the proposed civil liability, to refer the matter to the Attorney General for recovery of judicial liability, or take other enforcement actions.

Therefore, I hereby propose that the dischargers pay an Administrative Civil Liability in the amount of \$40,000.

Ordered by: \_\_\_\_\_

Lee A. Michlin  
Executive Officer

May 31, 1999

Waiver of Hearing

You may waive the right to a future hearing. If you wish to waive the hearing, please sign the enclosed waiver and return it together with a cashier's check or money order, made payable to the "State Water Resources Control Board" for the amount of civil liability proposed above to the California Regional Water Quality Board, North Coast Region, 5550 Skylane Boulevard Suite A, Santa Rosa, CA 95403. The waiver and payment must be received no later than June 30, 2000. This settlement will not become effective until after a 30-day public comment