

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN FRANCISCO BAY REGION

ORDER NO. R2-2006-0048

RESCISSION OF SITE CLEANUP REQUIREMENTS (ORDER NO. 98-009) FOR:  
THE SHERWIN-WILLIAMS COMPANY

for the property located at:

1450 SHERWIN AVENUE  
EMERYVILLE  
ALAMEDA COUNTY

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

1. **Water Board Orders:** The Board adopted Site Cleanup Requirements, Order No. 98-009 for this Site on February 18, 1998.
2. **Basis for Rescission:** This Order rescinds Site Cleanup Requirements, Order No. 98-009, due to a change in administering agency (aka lead agency) oversight from this Board to the Department of Toxic Substances Control (DTSC).
3. **Lead Agency Designation:** On June 24, 1997, pursuant to California Health & Safety Code § 25260 et. seq., Sherwin-Williams submitted a Request to the California Environmental Protection Agency's (Cal/EPA) Site Designation Committee for Designation of administering agency, seeking the appointment of the Board as the lead agency for the Site. In Cal/EPA Resolution No. 97-12, dated July 31, 1997, Sherwin-Williams' request was granted.
4. **Basis for Lead Agency Change:** On January 20, 2006, pursuant to Health and Safety Code section 25267, Board staff requested that the Site Designation Committee rescind the original designation of the Board as the lead agency for the Site and designate DTSC as the lead agency. Since the 1997 lead agency designation, Board staff identified changed circumstances at and near the Site that warranted a re-examination of the Committee's original lead agency designation. Based on these changed circumstances, Board staff concluded that DTSC is the more appropriate lead agency for the Site at this time. Since 1997, the anticipated future land use of the Site has changed. The existing

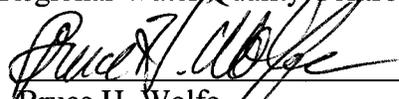
paint manufacturing facility will be closed and redeveloped into mixed uses, including residential. Additionally, surrounding properties have and are continuing to move away from industrial uses and toward more sensitive uses (residential and live/work). The initial concern with respect to the Site was water quality, due to its proximity to Temescal creek, as well as downgradient properties. Current investigation data suggests that the groundwater plume, while containing extremely high concentrations of pollutants, is limited in extent and migrating at a slow rate. In addition, there has been increased community concern regarding potential human health impacts during remediation, due to the high level of pollutants present.

Based on these factors, Board staff determined that DTSC would be a more appropriate lead agency for the Site.

5. **Lead Agency Redesignation and DTSC Order:** The Site Designation Committee, on February 23, 2006, adopted Resolution No. 06-02, thereby designating DTSC as the lead agency for the Site. DTSC, on May 10, 2006, issued an "Imminent or Substantial Endangerment Determination and Order and Remedial Action Order" (Docket No. IS/E 05/06-007), under the California Health and Safety Code to regulate further investigation and cleanup activities at the Site.
6. **CEQA:** This action rescinds an order to enforce the laws and regulations administered by the Board. As such, this action is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15321 of the Resources Agency Guidelines.
7. **Notification:** The Board has notified the discharger 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.
8. **Public Hearing:** The Board, at a public meeting, heard and considered all comments pertaining to this discharge.

**IT IS HEREBY ORDERED**, pursuant to Section 13304 of the California Water Code, that Order No. 98-009 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 July 12, 2006.

  
Bruce H. Wolfe  
Executive Officer

