CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

SAN FRANCISCO BAY REGION

ORDER NO. 98-075

ORDER SETTING ADMINISTRATIVE CIVIL LIABILITY FOR

RAYMOND GUADAGNI, PROPERTY OWNER OF FORMER AL'S AUTO DISMANTLERS
1274 MCKINSTRY STREET
NAPA, NAPA COUNTY

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

1. On August 21, 1996, the Board adopted Site Cleanup Requirements Order No. 96-115 for Raymond Guadagni's property, formerly called Als' Auto Dismantlers, located at 1274 McKinstry Street in Napa, Napa County. Mr. Raymond Guadagni is hereinafter referred to as "discharger".

2. The discharger has failed to comply with Task B5 of Order No. 96-115 which required the discharger to submit a technical report by July 1, 1997, that included a proposal for final remedial actions and proposed cleanup standards.

3. The Regional Board's Executive Officer notified the discharger of his failure to comply with requirements of the Order No. 96-115 by a Notice of Violation letter dated December 4, 1997. Subsequent to the issuance of this Notice of Violation, the discharger hired a consultant to conduct soil investigation at the site, and submitted a workplan for approval to the Board on February 18, 1998. The workplan which proposes to define the lateral and vertical extent of pollution in soil, and to determine the solubility of metals both for waste classification and leachability was approved by the Board.

4. On June 10, 1998, the Executive Officer issued Complaint No. 98-045 to the discharger. The complaint proposed that Administrative Civil Liability be imposed by the Board in the amount of $16,200 including $3,000 for staff costs, pursuant to Section 13350(g) of California Water Code.

5. The Board has fully considered the factors set forth for determining the amount of civil liability set forth in Water Code Section 13327 which are as follows:

a. NATURE AND CIRCUMSTANCES OF VIOLATION

Failure to furnish a Proposal for Final Remedial Actions and Cleanup Standards of Pollution in Soil and Groundwater as required by Task B5 of Site Cleanup Requirements Order No. 96-115.

b. EXTENT OF GRAVITY OF VIOLATION:

Various environmental receptors including wetlands near the site may have been impacted by a release. Although a work plan for additional soil investigation was ultimately submitted on February 18, 1998, which met the requirements of Task Bl of Order, the discharger is still in noncompliance with the Task B5 compliance date of July 1, 1997. As a result, the facility has been in violation for at least 264 days to filling of the complaint.

c. SUSCEPTIBILITY OF THE DISCHARGER TO CLEANUP OR ABATEMENT

Remedial measures such as removal, treatment and/or containment are necessary to protect human health and the environment as well as to prevent further migration of pollution.

d. THE DEGREE OF TOXICITY OF DISCHARGE

Soil and groundwater has been impacted as a result of auto wrecking operations at this facility. Pollution from these wastes could be toxic to the adjacent river as well as unreasonably impairing beneficial use of the river and groundwater.

e. ABILITY TO PAY

In order to determine the amount of liability the discharger's father's attorney (who in the past has been this Board's contact in this case) was sent a letter on March 2, 1998, requesting information relevant to Section 13327 of the Water Code. The discharger's father's attorney responded to our March 2, 1998 letter, but his response did not provide the required information. The implication of the letter, however, is that high monetary penalties would have a deleterious effect on the financial well being of the attorney's client. Also, the named discharger, Raymond Guadagni, who was copied on the letter did not respond.

f. EFFECT ON ABILITY TO CONTINUE BUSINESS

The business is no longer in operation.

g. ANY VOLUNTARY CLEANUP EFFORTS UNDERTAKEN

The discharger has performed interim remedial cleanup to some extent. An unreported amount of petroleum contaminated soil was removed from the site by Terratech Inc. on December 21, 1996. Earlier another firm, Excel Trans, scraped 3 to 4 inches of soil from the former auto storage area to remove the surficial oil stained soil.

h. PRIOR HISTORY OF VIOLATIONS

EnviroNet's January 10, 1997 report states that the facility had once been in violation of requirements of the Department of Toxic Substance Control (DTSC). An August 6, 1992 letter of violation from DTSC noted problems such as illegal disposal of oil on land.

i. THE DEGREE OF CULPABILITY OF THE VIOLATOR

The discharger is fully aware of the requirements of the Order No. 96-115. He was additionally informed of his violation by a Notice of Violation letter dated December 4, 1997, and informally by staff on several prior occasions.

j. ECONOMIC SAVINGS RESULTING FROM THE VIOLATION

The discharger has realized an economic savings by delaying the investigation and final remedial measures on the site for more than 264 days. The cost savings of non-compliance are estimated to be the equivalent of about 10% on a return on $100,000 that otherwise would have been spent on investigation and cleanup over a year's period.

6. REGIONAL BOARD FINDING

The Board finds that the discharger has hired a consultant, Ground Zero Analysis, to conduct additional soil investigation at the site. The workplan dated February 18, 1998, submitted by the discharger's consultant has been approved. The objective of this investigation would be to define the lateral and vertical extent of pollution in soil, and to determine the solubility of metals both for waste classification and leachability.

In view of recent work progress which the Board considers constructive and positive steps toward compliance, staff recommends imposition of an Administrative Civil Liability under the requirements of Section 13350(g)

of the California Water Code in the amount of $16,200 of which $3,000 is for staff cost.

7. The Board made a motion to increase the amount of civil liability from $16,200 which was originally proposed in the Complaint, to $36,200. The $20,000 increase in amount of civil liability, compared to original amount recommended in the Complaint, is for the long delay in submitting of a Proposal (workplan) for Final Remedial Actions and Cleanup Standards as required under Task B5 of Order No. 96-115.

8. This Order imposes a civil liability of $36,200 of which $20,000 will be suspended provided that an adequate and acceptable Proposal (workplan) for Final Remedial Actions and Cleanup Standards is submitted within sixty days from the date of hearing. The due date for this report is September 14, 1998.

9. The Board has notified the discharger and all interested agencies and persons that it would hold a public hearing on this matter and has provided them with an opportunity to submit written comments.

10. The Board, at a public hearing, heard and considered all comments pertaining this discharge.

11. This action is an order to enforce the laws and regulations administered by the Board. This action is categorically exempt for the provisions of CEQA pursuant to Section 15321 of the Resources Agency Guidelines.

IT IS HEREBY ORDERED, PURSUANT TO CALIFORNIA WATER CODE SECTION 13350(g), that the discharger is civilly liable for this violation and shall pay administrative liability in the amount of $36,200 of which $20,000 is to be suspended if an adequate proposal is submitted by or before September 14, 1998. The $16,200 liability shall be paid to the State Water Resource Pollution Cleanup and Abatement Account within 30 days of the date of this Order. The remaining liability in the amount of $20,000, if not suspended as described herein, shall be paid to the State Water Pollution and Cleanup Account with 30 days of the date of a demand letter requesting payment issued by the Executive Officer.

I, Loretta K. Barsamian, Executive Officer, do hereby certify that the foregoing is a full, complete, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on July 15, 1998.

Loretta K. Barsamian

Loretta K. Barsamian
Executive Officer