



California Regional Water Quality Control Board

San Francisco Bay Region



Linda S. Adams
Acting Secretary for
Environmental Protection

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Edmund G. Brown, Jr.
Governor

Date: February 2, 2011
File No. 01S0576 (CFC)

Signature at the Estuary, LLC
Attn: Mr. Patrick Van Ness
4670 Willow Road, Suite 200
Pleasanton, CA 94588-2710
pvanness@signaturedevelopment.com

Shell Oil Products US, Environmental Claims
Attn: Ms. Beth Flowers
One Shell Plaza, Room 666
910 Louisiana
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SUBJECT: Transmittal of Tentative Order – Amendment of Site Cleanup Requirements (Order No. R2-2004-0046) – for the Properties located at 2901 to 2999 Glascock Street and including Bowsman Court, Channel Way and Regatta Drive, Oakland, Alameda County.

Dear Mr. Van Ness and Ms. Flowers:

Attached is a Tentative Order (Amendment of Site Cleanup Requirements) for the subject site. The Tentative Order amends the existing site cleanup requirements to add Shell Oil Company as a named discharger, modify the groundwater cleanup standards, and add soil gas cleanup standards.

This matter will be considered by the Regional Water Board during its regular meeting on Wednesday, March 9, 2011. The meeting will start at 9:00 am and will be held in the first floor auditorium of the Elihu Harris Building, 1515 Clay Street, Oakland, California. Any written comments by you or interested persons must be submitted to the Regional Water Board offices by February 21, 2011. Comments submitted after this date will not be considered by the Regional Water Board.

Pursuant to section 2050(c) of Title 23 of the California Code of Regulations, any party that challenges the Regional Water Board's action on this matter through a petition to the State Water Board under Water Code section 13320 will be limited to raising only those substantive issues or objections that were raised before the Regional Water Board at the public hearing or in timely submitted written correspondence delivered to the Regional Water Board (see above).

If you have any questions, please contact Cleet Carlton of my staff at (510) 622-2374 [e-mail: ccarlton@waterboards.ca.gov].

Sincerely,

Bruce H. Wolfe
Executive Officer

Attachment: Tentative Order
cc w/attach: Mailing List

Mailing List

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CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

TENTATIVE ORDER

AMENDMENT OF SITE CLEANUP REQUIREMENTS (ORDER NO. R2-2004-0046) FOR:

SHELL OIL COMPANY
SIGNATURE AT THE ESTUARY, LLC

for the properties located at

2901 to 2999 GLASCOCK STREET, and including
BOWSMAN COURT, CHANNEL WAY and REGATTA DRIVE
OAKLAND
ALAMEDA COUNTY

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

1. **Regional Water Board Orders:** The Regional Water Board adopted Order No. R2-2004-0046, final site cleanup requirements (Final SCR) for this site on June 16, 2004. An amendment (Order No. R2-2004-0096) was adopted on December 7, 2004, which removed the Friends of California Men's Crew, a California non-profit corporation, as a named responsible party following completion of their obligations under the Final SCR.
2. **Reasons for Amendment:**
 - a. Addition of Shell Oil Company as a named responsible party. Shell Oil Company was the Owner and operator of the bulk fuel distribution terminal at the Site from approximately 1925 to 1980. In addition, Shell owned the two associated product pipelines which underlie Glascock Street and were used historically to deliver petroleum products to the former bulk fuel distribution terminal. Releases from the former bulk fuel distribution terminal were first reported in 1942. An oil recovery system consisting of extraction wells, stormwater drainage controls, oil-water separator, and oil absorbent booms were reportedly operated at the property from the early 1970s to the late 1980s. In addition to the onsite fuel tanks and appurtenances, a suspected source of residual petroleum contamination at the Site is impacted soil and/or groundwater as a result of leakage from the Shell Oil pipelines.

Shell Oil Company was not previously named as a discharger because Signature at the Estuary, LLC, the current owner at the time of the Final SCR, was actively involved with site cleanup. However, Signature at the Estuary, LLC, has informed the Regional Water

Board that they do not have the financial capacity to fulfill the obligations under the Final SCR.

b. Amendment of Groundwater Site Cleanup Standards. The 2004 order found that groundwater underlying and adjacent to the site does not qualify as a potential source of drinking water due to high total dissolved solids (TDS) and due to contamination. However, more recent groundwater monitoring data (biodegradation indicator parameters) clearly show that TDS is well below the 3,000 mg/l threshold (typically between 400 and 800 mg/l). Furthermore, site contamination is not naturally-occurring and cannot be used to as a basis for eliminating drinking water as a beneficial use. Therefore it is appropriate to set groundwater cleanup standards that protect drinking water beneficial use.

Groundwater cleanup standards that protect the drinking water beneficial use are uniformly more stringent than those necessary to protect aquatic receptors in the adjacent Oakland Estuary. Therefore, there is no need for a separate set of groundwater cleanup standards in the 50-foot shoreline buffer zone (to protect aquatic receptors). The 50-foot shoreline buffer zone and its associated groundwater cleanup standards should be removed from the 2004 order.

c. Addition of Soil Gas Cleanup Standards. Soil gas monitoring was performed subsequent to the adoption of the Final SCR and subsequent to the remedial actions (excavation and in-situ groundwater treatment) at the site. Monitoring results have indicated residual concentrations of petroleum-related compounds in soil gas that present a concern for vapor intrusion into indoor air.

3. **CEQA:** This action is an amendment of an order to enforce the laws and regulations administered by the Regional Water Board. This action is exempt from the provisions of the California Environmental Quality Act (CEQA) under the general rule that “CEQA applies only to projects that have the potential for causing a significant effect on the environment” (14 CCR section 15061(b)(3), also known as the “common sense” exemption). This action makes administrative changes to the existing site cleanup order and will not result in new or substantially different cleanup activities at the site.
4. **Notification:** The Regional Water Board has notified the discharger and all interested agencies and persons of its intent under California Water Code Section 13304 to amend site cleanup requirements for the discharge, and has provided them with an opportunity to submit their written comments.
5. **Public Hearing:** The Regional Water 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. R2-2004-0046 shall be amended as follows:

A. Shell Oil Company is hereby added to the Order as a named discharger. Finding 3 is revised to read:

3. **Named Dischargers:**

Shell Oil Company is named as a discharger because it owned a portion of the property during the time of the activity that resulted in the discharge, had knowledge of the discharge or the activities that caused the discharge, and had the legal ability to prevent the discharge.

Signature at the Estuary, LLC is named as a discharger because it owned the property during or after the time of the activity that resulted in the discharge, has knowledge of the discharge or the activities that caused the discharge, and has the legal ability to prevent the discharge.

If additional information is submitted indicating that other parties caused or permitted any waste to be discharged on the site where it entered or could have entered waters of the state, the Regional Water Board will consider adding those parties' names to this order.

B. Cleanup Standards shall be amended to eliminate the 50-foot shoreline buffer zone and update groundwater cleanup standards. Finding 12.b. is revised to read:

Beneficial Uses: The Regional Water Board adopted a revised Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan) on January 18, 2007. This updated and consolidated plan represents the Regional Water Board's master water quality control planning document. The revised Basin Plan incorporates all amendments approved by the Office of Administrative Law. A summary of regulatory provisions is contained in Title 23, California Code of Regulations, Section 3912. The Basin Plan defines beneficial uses and water quality objectives for waters of the State, including surface waters and groundwaters.

Regional Water Board Resolution No. 89-39, "Sources of Drinking Water," defines potential sources of drinking water to include all groundwater in the region, with limited exceptions for areas of high TDS, low yield, or naturally-high contaminant levels. Groundwater underlying and adjacent to the site qualifies as a potential source of drinking water due to TDS measurements in monitoring wells considerably below the exemption threshold of 3,000 mg/L, and contamination in groundwater being a result of historic site uses.

The Basin Plan designates the following potential beneficial uses of groundwater underlying and adjacent to the site:

- Freshwater replenishment to surface waters

- Municipal or domestic water supply

The existing and potential beneficial uses of the Oakland Estuary include:

- Ocean, Commercial, and Sport Fishing
- Industrial process supply or service supply
- Water contact and non-contact recreation
- Wildlife habitat
- Fish migration and spawning
- Navigation
- Estuarine habitat
- Shellfish harvesting
- Preservation of rare and endangered species

Section B.2. is revised to read:

Groundwater Cleanup Standards: The following groundwater cleanup standards shall be met in all wells identified in the Self-Monitoring Program.

| Constituent | Groundwater Cleanup Standard (ug/l) | Basis |
|--------------|-------------------------------------|-------|
| TPH-Gasoline | 100 | GCCV |
| TPH-Diesel | 100 | GCCV |
| Benzene | 1 | MCL |
| Toluene | 40 | GCCV |
| Ethylbenzene | 30 | GCCV |
| Xylene | 20 | GCCV |
| MtBE | 5 | GCCV |

Notes: MCL = Maximum Contaminant Level (drinking water)

GCCV = Gross Contamination Ceiling Value

(Basis is lowest value of all applicable concerns; *Screening For Environmental Concerns At Sites With Contaminated Soil and Groundwater*, Regional Water Board, Interim Final November 2007, Revised May 2008)

- C. Cleanup Standards shall be amended to include soil gas cleanup standards. Section B.4. is added to read:

Soil Gas Cleanup Standards: The following soil cleanup standards shall be met in all on-site soil gas.

| Constituent | Soil Gas Cleanup Standard (ug/m ³) | Basis |
|--------------|--|-------|
| TPH-Gasoline | 10,000 | VI |
| TPH-Diesel | 10,000 | VI |
| Benzene | 84 | VI |
| Toluene | 63,000 | VI |
| Ethylbenzene | 980 | VI |
| Xylene | 21,000 | VI |
| MtBE | 9,400 | VI |

Notes: VI = Vapor Intrusion into Buildings, residential land use scenario (Basis is lowest value of all applicable concerns; *Screening For Environmental Concerns At Sites With Contaminated Soil and Groundwater*, Regional Water Board, Interim Final November 2007, Revised May 2008).

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 _____.

 Bruce H. Wolfe
 Executive Officer

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FAILURE TO COMPLY WITH THE REQUIREMENTS OF THIS ORDER MAY SUBJECT YOU TO ENFORCEMENT ACTION, INCLUDING BUT NOT LIMITED TO: IMPOSITION OF ADMINISTRATIVE CIVIL LIABILITY UNDER WATER CODE SECTIONS 13268 OR 13350, OR REFERRAL TO THE ATTORNEY GENERAL FOR INJUNCTIVE RELIEF OR CIVIL OR CRIMINAL LIABILITY

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