
COMPLIANCE ASSISTANCE AND ENVIRONMENTAL ENFORCEMENT IN SONOMA COUNTY AND THE SAN FRANCISCO BAY AREA

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SUMMARY

A retrospective overview of the results of the Compliance Incentive Program implemented with the auto repair industry in Santa Rosa, Sonoma County, California over a 5 year period is given along with details of the expansion of such programs in the San Francisco Bay area.. The program, Sonoma Green Business (SGB), was introduced as an alternative approach to supplement traditional environmental regulation based enforcement activities. While Sonoma Green Business was originally intended to recognize businesses for their efforts in environmental protection and full regulatory compliance, over the course of its inception and implementation the program has had profound effects that were not entirely anticipated. The Compliance Incentive Program has not only led to greater degrees of compliance within the regulated community, but has also contributed to a level of cooperation between local environmental regulators, law enforcement agencies and criminal prosecutors not previously experienced. This in turn has resulted in the first criminal prosecutions and convictions for environmental crimes in Sonoma County. A planned Compliance Incentive Program expansion in Sonoma County to include the printing and wine making industries, as well as Compliance Incentive Program development in the nine counties surrounding San Francisco Bay, is expected to continue these trends.

1 COMPLIANCE INCENTIVE PROGRAM ORIGINS

1.1 Background Information

Full details of the implementation and initial effects of the Sonoma Green Business Compliance Incentive Program were presented in a paper entitled "The Compliance Incentive Experience in Santa Rosa, California" published in the Proceedings Volume 1 of the Third International Conference on Environmental Enforcement 1994. A brief synopsis follows.

In 1988 the City of Santa Rosa's Industrial Waste Section embarked on an effort to establish local regulatory control of the discharge of industrial pollutants to the sanitary sewer system and its Laguna Wastewater Reclamation Plant. The facility is an advanced tertiary municipal wastewater treatment plant with a 20 million gallon per day flow. It serves 4 cities and a population of over 200,000. Reclaimed water is used entirely for irrigation in summer months and during the winter months a portion of the flow is discharged to the Russian River. Irrigation activities include both urban and agricultural uses. Additionally, Class B biosolids produced by the facility are applied to local crop land or composted with wood chips to produce a high quality

Class A compost which is made available for sale on the open market. Control of industrial discharges is essential to maintain the ability to maximize the reuse of local water resources and to recycle organic solids. Further, requirements placed on the facility in its National Pollution Discharge Elimination System Permit (NPDES) issued by the United States Environmental Protection Agency (US EPA) and the California North Coast Regional Water Quality Control Board mandate an effective Industrial Waste Control Program (IWCP). The US EPA and Water Board also set strict limits on the concentration of pollutants in plant effluent as well as in biosolids used for land application and composting. After 3 years of development, the City's program was fully approved by both agencies in 1991.

The core of the City's Industrial Waste Control Program is a system of inspections, permitting and sampling of businesses discharging to the sanitary sewer system. These activities are backed by a Wastewater Discharge Ordinance which provides enforcement authority to issue citations, impose monetary and other civil penalties and write Cease and Desist orders to halt illegal discharges, and terminate water and sewer services. Working within this framework City Industrial Waste inspectors discovered that the auto repair and service industry with over 275 facilities and an estimated base of 300,000 vehicles was, as a whole, a major source of Toxic Organic and heavy metals discharges. Vehicle service operations had not previously been recognized as a significant source of industrial discharges nor were they regulated. Working with affected businesses to address the problem and derive a solution, inspectors found owners and managers to be, if not antagonistic to, at least wary of government regulators. At the same time most agreed to cooperate. Many felt they had little choice. Inspections of the largest auto repair and maintenance shops were made and Wastewater Discharge Permits issued. Technically based pollutant limits were placed on any process discharges to the sanitary sewer and a regular sampling program was established to verify compliance.

1.2 From Confrontation to Cooperation, a Shift in Philosophy

By the end of 1991 it had become apparent to inspectors that shop owners were struggling to comply but often felt overwhelmed by ever more numerous and complicated environmental regulations and requirements. Owners complained that numerous inspections by various regulatory agencies often left them confused about exactly what was required for compliance. Many said they were given conflicting information by different agencies and even by different inspectors from the same agency. But, by far the most often voiced complaint was that the costs of equipment required to clean up discharges had to be passed on to their customers, which gave non complying businesses a competitive advantage. An almost exclusively punitive approach by Sonoma County regulatory agencies including the issuance of Notices of Violation, Cease and Desist orders and fines, added to businesses' expenses and fostered an increasingly adversarial relationship with the regulatory agencies.

In an effort to address these concerns, area environmental inspectors began adopting a new approach to environmental regulatory requirements. Incorporating the concept of "pollution prevention", inspectors began to work directly with auto shop owners to provide technical assistance to aid them in the elimination of toxic and hazardous pollutants at the source instead of trying to clean up discharges at the "end of pipe". Results of discharge water quality sampling of each shop were reported to shop owners immediately for quality control. Individual contaminants in discharges were identified and traced back to their source with the use of product labeling information and Material Safety Data Sheets. Process changes and product substitutions were encouraged to be made where ever possible. Where no other alternative was available waste pretreatment technologies were installed. A switch from a strictly punitive

approach to this problem solving strategy quickly led to a lessening of antagonism and the beginnings of cooperative relationships between the businesses and environmental agencies. It also had the most significant effect of bringing the discharges from cooperating businesses into full compliance with discharge standards. The latter accomplishment helped assure the Laguna Plant's continuing compliance with discharge and biosolids standards. The new approach can best be summed up as "education before litigation".

In response to industry concerns of multiple inspections and conflicting information, City inspectors contacted inspectors from all of the seven other environmental regulatory agencies serving Sonoma County. Included were Santa Rosa Fire Department, Sonoma County Emergency Services, Sonoma County Environmental Health Department, Regional Water Quality Control Board, Bay Area Air Quality Management District, Department of Toxic Substance Control and California Environmental Protection Agency (CAL EPA). Broad agreement developed amongst the agencies' personnel that a higher level of inter-agency communication and cooperation was required. To that end the Sonoma Environmental Quality Assurance Committee was formed. The Committee members include inspectors and managers of all of the agencies. The committee meets once a month. The meetings provide a forum for discussion of pressing environmental compliance issues, creating enhanced inter agency relations and communications, cross training, and information sharing on non-complying businesses.

1.3 Supplementing Enforcement with Incentive

By June of 1992 ongoing discussions with business owners had convinced Sonoma Environmental Quality Assurance Committee members that what was needed to form a sustainable cooperative relationship between regulators, business and the public was a "carrot" to supplement their regulatory "stick". Working together, members looked for successful environmental compliance incentive programs already in existence. They found only one active program, "Clean Bay Business" in Palo Alto, California. Although new itself, it served as a model for the Sonoma Green Business program. Program criteria were developed in a collaboration between agencies, business representatives and the environmental consulting firm Strategic Environmental of Sebastopol, California. Key players included several small auto shop owners, owners of four large auto dealerships, Chamber of Commerce directors from the cities served by the Laguna Treatment Plant, auto shop instructors from local educational institutions and representatives from local environmental groups.

The Sonoma Green Business Compliance Incentive Program consisted of four elements:

- Technical Assistance—businesses are provided with Information on environmental compliance, including training and material on Best Management Practices and Pollution Prevention.
- Regulatory Streamlining—a collaborative effort involving all environmental regulatory agencies creates an integrated inspection checklist for the automotive repair and service industry to streamline the inspection process. This eliminates conflicting, confusing and redundant, regulation, reduces the number of annual inspections, and enhances communication between agencies.
- Recognition— a recognizable regional sticker (Figure 1) is presented to businesses that comply with all mandatory environmental regulations. This provides businesses with the incentive to make the commitment and investment

required for full regulatory compliance. The sticker provides the business with a marketing tool, moving the competitive advantage away from non-complying businesses.

- **Consumer awareness**—a significant pollution prevention outreach effort is initiated to educate consumers about the program and the environmental information represented by the recognition stickers. Consumers are given the opportunity, by supporting environmentally responsible businesses, to play a meaningful role in pollution prevention.

After two years of program development and facility inspections, on March 1, 1994 the first 41 Sonoma Green Business certificates were publicly awarded at a regularly scheduled Santa Rosa City Council Meeting.



Figure 1 Regional sticker presented to businesses that comply with all mandatory environmental regulations

2 SONOMA GREEN BUSINESS COMPLIANCE INCENTIVE PROGRAM PROGRAM - LOCAL DEVELOPMENTS 1994 TO 1998

2.1 Program Participation

While only 41 businesses were originally certified, another 30 were in process at the time. The number of businesses participating has increased steadily thereafter. By May of 1998 a total of 112 auto repair and maintenance facilities had been certified as Sonoma Green Businesses. Over 1/3 of the auto shops in the Laguna Plant's service area are now participating in the program. Virtually all of the largest shops are participants. Additionally, the program has

expanded to include auto service shops not only within the Laguna Plant's service area but also throughout Sonoma County. Meanwhile, other sectors of the local business community had begun to take notice of the program.

A number of local printing and graphics shops were contracted to assist in the development of written and graphic materials related to the Sonoma Green Business program for auto shops. By mid 1995 Sonoma Green Business program managers began receiving requests from these printers to include their operations in the program. In 1996 neighboring Napa County, which was also developing a Compliance Incentive Program, modeled Santa Rosa's auto related Incentive Program and also began development of an Incentive Program for winery operations. Many wineries maintain facilities in both counties. This led Napa and Sonoma Counties, which together constitute the wine center of California, to cooperate to make their Incentive Programs for both business types as similar in concept and implementation as possible. Meanwhile, in the nine Counties surrounding San Francisco Bay, the Hazardous Waste Management Capacity Allocation Committee of the Association of Bay Area Governments (ABAG), with the aid of CAL EPA and US EPA grants, is coordinating an effort to establish Green Business Programs area wide. A primary goal of the effort is the development of compatible programs region wide. The ABAG organization comprises a Regional Conference of Governments and includes representatives of nine bay area counties and many cities within those counties. The geographic region represented consists of an area the size of the state of New Jersey and a population equivalent to that of the State of Massachusetts. Both Sonoma County and the City of Santa Rosa are ABAG members. Progress on this front is described later.

2.2 Inspections

A reduction in the number of inspections required to confirm ongoing regulatory compliance was a stated goal the Sonoma Green Business program. A review of inspection data and interviews with Industrial Waste Control Program inspectors have confirmed that this goal has been met for City inspectors. Inspection data for other participating agencies was not available during preparation of this report. Documentation is provided in the IWCP inspection data for the period from April 1994 to March 1998 for the auto repair industry. (Table 1)

Table 1 Industrial Waste Control Program inspection data

DATES	INSPECTIONS TOTAL	SGB PARTICIPANTS	NON PARTICIPANTS
April 94 to March 95	265	128	137
April 95 to March 96	293	87	206
April 96 to march 97	170	44	126
April 97 to March 98	126	34	92

For participating businesses a 73% reduction in the number of inspections, determined to be necessary to confirm compliance, resulted over the four year period. For non participants only a 33% reduction occurred during the same time frame. Industrial Waste Control Program inspectors attribute the decline in the number of required inspections to 2 factors; increased

knowledge of Best Management Practices, compliance requirements and record keeping procedures on the part of Sonoma Green Business shop owners and managers and, inspector confidence in program participants which allowed a switch from annual to biennial inspection schedules for Sonoma Green Businesses. This decrease not only provided relief to business operators but also freed up inspector time which has been utilized to investigate the serious environmental violations detailed below. Some business owners choose not to participate in the program even though they are in full compliance with regulations and meet all qualification criteria. Regardless of participation in the program, any business that consistently demonstrates ongoing compliance is placed on a biennial inspection schedule. This is a factor contributing to the smaller, but still significant decrease in inspection frequency for non participants.

2.3 Compliance

The compliance status of any business subject to environmental regulations is determined by facility inspections and discharge sampling as appropriate. Violations detected during the process are classed based on the severity of the violation. A Class I Violation is *defined as* "...representing a significant threat to human health or safety and the environment." A Class II Violation is defined as "A minor deviation from the regulation, standard, requirement or permit." Any Class I violation will result in civil and/ or criminal actions. For Sonoma Green Business participants Class I violations are also cause for immediate revocation of Sonoma Green Business status. Class II violations generally result in Warning Notices or Notices of Violation which normally provide up to a thirty day period to correct the violation. Immediate correction of some violations may be required. e.g. improperly filled out Hazardous Waste Labels. For the Program participants any failure to correct Class II violations in a timely manner and/or continuing Class II Violations are also cause for revocation of status.

Since 1994 overall compliance within the auto service sector has been exemplary. Inasmuch as auto shops in general were rarely found to be in complete compliance in 1990 when the first inspections and permitting of these operations were performed the current record is remarkable. A review of the compliance data for auto service shops confirms the progress (Table 2). As can be seen from this data four Sonoma Green Business participants were removed from the program since 1994. These shops were removed from the program for serious Class I environmental violations. Civil actions appropriate to correct the violations were immediately filed against these businesses which represent less than 4% of participating shops.

Only one non participating shop was subject to enforcement action for a Class I violation during the same period. While this variance was not expected, an explanation may be found in the fact that the majority of the largest high volume local vehicle service providers are program participants. These facilities have much more diverse operations and handle much larger volumes of hazardous materials and waste than the smaller operators which make up the bulk of non participating businesses. In addition many of the larger businesses also operate underground storage tanks not generally found in smaller operations. Larger businesses in general are also subject to regulation by more agencies than smaller shops. One or more of these factors figured prominently in all instances of revocation. All of the Class I violations resulting in revocation of Sonoma Green Business status were committed by large shop operators.

Minor environmental violations were spread evenly between participating and non participating shops. These violations in general consisted of minor discharge limit violations, hazardous waste labeling requirement discrepancies or minor violations of permit conditions. All were corrected within 30 days. The frequency of these minor violations highlights the need for the constant attention to detail by business operators which is required to maintain total environmental compliance. It also serves as a reminder to regulators that educational and training efforts must remain a high priority in relations with the business community as must continued credible levels of inspection and enforcement.

Overall the compliance record for vehicle repair operations in Sonoma County is good. It is anticipated that the decreased number of violations in 1997 and the absence of any violations in the first 6 months of 1998 represent a continuing trend towards total compliance within this business sector.

Table 2 Compliance data for auto service shops

YEAR	CLASS	NUMBER OF VIOLATIONS		SPECIFIC VIOLATION	ENFORCEMENT ACTION
		SGB	NON		
1994	I	1	0	Unreported underground tank leak	SGB Revocation Clean-up Order
	II	1	6	SGB - Improper haz. waste labeling. NON - minor permit condition and discharge limit violations.	SGB - Warning Notice NON - Notices of Violation
1995	I	2	1	SGB - AQMD rules violation, failure to obtain proper permits. NON - Serious permit condition and discharge limit violation.	SGB Revocation (2). NON - Administrative Order Cease and Desist.
	II	4	6	SGB - Minor labeling and storage violation, failure to maintain equipment. NON - Permit condition and discharge limit violations.	SGB - Warning Notices w/ 30 day compliance requirement. NON - Notices of Violation w/30 day compliance requirement
1996	I	1	0	SGB - Illegal haz. waste disposal	SGB - Revocation
	II	13	4	SGB - Minor labeling storage and discharge limit violations. NON - Minor permit condition and discharge limit violations.	SGB - Warning Notices and Notices of Violation w/ 30 day compliance requirements. NON - Same.
1997	I	0	0		
	II	3	2	SGB - Minor discharge limit violations and unauthorized storm drain discharge. NON - Permit condition and discharge limit violations.	SGB - Warning Notices and Notice of Violation. NON - Notices of Violation
1998	I	0	0		
	II	0	0		

3 **DETOURS AND ROADBLOCKS**

3.1 Reorganizations

Between 1994 and 1998 major reorganizations of California State and local regulatory agencies took place. On the state level, under State Senate Bill 1082, a unified hazardous waste and hazardous materials management regulatory program was established. Six existing programs were consolidated and made consistent throughout each County. In each County a Combined Uniform Permitting Agency (CUPA) was to consolidate existing permit processes and provide businesses with a single permit for the six core programs:

- Hazardous Waste Generators and Hazardous Waste Onsite Treatment;
- Underground Storage Tanks;
- Hazardous Material Release Response Plans and Inventories;
- Accidental Release Prevention Program;
- Above Ground Storage Tanks (spill prevention/countermeasure plan); and
- Uniform Fire Code Hazardous Materials Management Plans and Inventories.

Three Combined Uniform Permitting Agencies were certified in Sonoma County in 1997. As a result several agencies participating in SEQAC underwent reorganizations. The Santa Rosa Fire Department, Sonoma County Emergency Services and the Environmental Health Department were affected. The Fire Department and Emergency Services were both Certified as Combined Uniform Permitting Agencies in their respective service areas. Many of the responsibilities that had been carried out by the Environmental Health Department were transferred to one or both of the CUPA's. Agency personnel were reassigned, organizational structures were modified and in some cases staffing levels were increased to meet additional responsibilities. For SEQAC that meant new members and participants and an increased need for training and cross training, a necessity for establishing new working relationships and a need to educate new personnel in the specific requirements of the Sonoma Green Business program.

A concurrent reorganization took place within the City of Santa Rosa. In an effort to streamline the organizational structure, increase efficiency and to remain competitive with private sector contractors, City departments were directed to eliminate one level of management. This resulted in a reassignment of managers, a reorganization of department structures and a redefinition of the job duties of many employees. IWCP inspectors, for instance, were given much more responsibility for record keeping, report preparation and scheduling of daily activities.

These changes placed additional demands on inspectors' and managers' time and added to, or changed key personnel with a stake in the Sonoma Green Business program. The development of criteria for additional business types was postponed as Sonoma Environmental Quality Assurance Committee participants learned the requirements of their new responsibilities and adjusted to their new roles. As some agencies substituted management personnel for front line inspectors at Committee meetings, the remaining inspectors often felt that their input was no longer really being heard. This issue resolved itself during the annual elections of the committee chair and co-chair. Nearly unanimous votes consistently elected inspectors to the posts. The front line inspectors thus maintained a modicum of control over the direction of the Sonoma Environmental Quality Assurance Committee and the program.

Maintaining multi-agency commitment to the program amidst the controlled chaos of the reorganizations also proved to be an ongoing challenge. However, the consistent support of the business community, the exposure of the program that resulted from the support of both CAL EPA and US EPA, and its expansion regionally served as powerful incentives for continuing support. The single most important influence for ongoing support of Sonoma Green Business however was the strengthened enforcement activity that came about as a result of the “cooperation before confrontation” philosophy developed by participating Sonoma Environmental Quality Assurance Committee agencies. In an effort to address the problem of non-responsive and non-complying businesses members sought out the aid of local law enforcement agencies. The Committee’s addition of members of the City of Santa Rosa Police Department’s Environmental Crimes Unit and the regular participation of Sonoma County Deputy District Attorney, Jeffrey Holtzman revolutionized environmental enforcement in Sonoma County. These developments led to the first misdemeanor and felony indictments and convictions for environmental crimes in Sonoma County, which will be detailed below.

While auto repair shops requesting Sonoma Green Business Certification during the reorganization period were handled expediently, active recruiting of new participants took a necessary back seat to the more pressing concerns resulting from the reorganizations. Overall support for the Program remained strong but progress was slowed. The reorganizations essentially represented a 2 year delay in the expansion of the Program.

3.2 Public Awareness/Advertising

A major component of the Program is a consumer outreach program. The development of strategies to inform the public has been a priority since Sonoma Green Business inception. Between 1993 and 1997 Santa Rosa allocated \$10,000 USD per year for program promotion. Outreach activities to date have included:


- Over 500 - 30 second TV commercials on local stations;
- TV News Stories;
- Program Presentations to Local Service Clubs (Kiwanis, Rotary, etc);
- Local Newspaper and Business Magazine Articles;
- Local Radio Talk Show Interviews;
- Announcements Included in City Utility Billing Statements;
- Public Transportation (Transit Bus) Banners;
- Bumper Stickers;
- Information Leaflets for Shop Waiting Areas;
- Program Presentations at Public Meetings (City Council, County Board of Supervisors, RWQCB etc); and
- Press Conferences and Announcements.

The success of the promotional activities aimed at raising public awareness has been decidedly mixed. As is the case with most advertising efforts, devising a strategy that reaches the target audience has been a challenge. Feedback from shop owners identified the Program Information Leaflets (Figure 2), which are provided for shop service desks and waiting rooms as effective promotional tools. Customer response to the basic information provided was uniformly positive. A number of shop owners reported customer comments indicating that they

would always look for a Green Business now that they knew of the program. Many indicated that they would encourage friends and family to do the same. SGB bumper stickers proved to be another popular item.

WE THINK THAT IT'S IMPORTANT FOR CITIZENS TO REALIZE THAT WASHING OR WORKING ON CARS AT HOME CAN ALSO POSE SEVERE RISKS TO THE ENVIRONMENT. IF YOU DO WORK ON YOUR CAR AT HOME, A FEW SIMPLE PRECAUTIONS CAN MAKE A BIG DIFFERENCE.

- IF YOU WASH YOUR CAR WITH SOAP, DO IT ON GRASSY AREAS IF AT ALL POSSIBLE. THEN DISPOSE OF YOUR BUCKET OF SLUDS INTO A SINK OR TOILET. THIS WILL PREVENT SOAP AND OTHER POLLUTANTS FROM FLOWING INTO UNPROTECTED STORM DRAINS.
- USE DRIP PANS IF YOUR CAR LEAKS FLUIDS, AND BE SURE TO CATCH DRIPS WHEN YOU CHANGE VEHICLE FLUIDS.
- RECYCLE USED MOTOR OIL AND ANTIFREEZE. NEVER PLACE THEM IN TRASH CANS OR DUMPSTERS. BRING THESE FLUIDS AND YOUR USED OIL FILTERS TO LOCAL HOUSEHOLD HAZARDOUS WASTE EVENTS FOR DISPOSAL. (CALL 527-DESK)
- TO CONSERVE WATER ALWAYS USE A SHUT OFF DEVICE (NOZZLE) ON YOUR HOSE.
- IF YOU ARE UNABLE TO TAKE THESE PRECAUTIONS, PLEASE CONSIDER HAVING A **SONOMA GREEN BUSINESS** TAKE ENVIRONMENTALLY FRIENDLY CARE OF YOUR CAR.



Laguna Wastewater Reclamation Facility
Operated by the City of Santa Rosa for the Communities of Santa Rosa, Rohnert Park, Sebastopol, Cotati & the South Park Sanitation District

WE'RE A SONOMA GREEN BUSINESS

WE ARE PROUD TO BE A PARTICIPANT IN THE **SONOMA GREEN BUSINESS** PROGRAM. THIS RECOGNITION BY LOCAL ENVIRONMENTAL REGULATORY AGENCIES COMMENDS THE SPECIAL EFFORTS WE'VE MADE TO PROTECT SONOMA COUNTY CREEKS, STREAMS, RIVERS AND AIR RESOURCES FROM POLLUTION BY HEAVY METALS, VEHICLE FLUIDS, SOLVENTS AND OTHER HAZARDOUS MATERIALS/WASTES.


STORM DRAINS IN SONOMA COUNTY FLOW DIRECTLY TO CREEKS, STREAMS AND RIVERS WITH NO TREATMENT. OUR DISCHARGES TO SINKS AND FLOOR DRAINS FLOW INTO THE SANITARY SEWER AND ARE TREATED AT THE CITY OF SANTA ROSA'S LAGUNA WASTEWATER RECLAMATION FACILITY. HOWEVER, WITHOUT PROPER PRETREATMENT AND CONTROL A SIGNIFICANT AMOUNT OF POLLUTANTS INCLUDING HEAVY METALS, AND SOLVENT CLEANING WASTES COULD REACH OUR WATERWAYS THROUGH STORM DRAINS AND SANITARY SEWERS. IF NOT PROPERLY HANDLED, SOLVENTS AND AIR CONDITIONING COOLANTS ALSO POSE SIGNIFICANT RISKS TO AIR QUALITY.

FOR THOSE REASONS THE **SONOMA GREEN BUSINESS** PROGRAM ENCOURAGES AND PROMOTES LOCAL BUSINESSES WHICH EMPLOY **BEST MANAGEMENT PRACTICES (BMP'S)** IN THE STORAGE, USE AND DISPOSAL/RECYCLING OF HAZARDOUS MATERIALS WHICH KEEP THE POLLUTANTS OUT OF STORM DRAINS, SEWERS AND THE AIR.

IN ORDER TO QUALIFY AS A **SONOMA GREEN BUSINESS** WE HAVE BEEN ISSUED APPROPRIATE PERMITS BY AND HAVE MADE OUTSTANDING EFFORTS TO MEET THE REQUIREMENTS OF LOCAL, STATE AND FEDERAL ENVIRONMENTAL REGULATORY AGENCIES INCLUDING:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
NORTH COAST REGIONAL WATER QUALITY CONTROL BOARD

RECOGNIZED AS A



SONOMA GREEN BUSINESS
PROTECTING SONOMA COUNTY ENVIRONMENTAL QUALITY

SONOMA COUNTY ENVIRONMENTAL HEALTH DIVISION
CITY OF SANTA ROSA INDUSTRIAL WASTE DIVISION
BAY AREA AIR QUALITY MANAGEMENT DISTRICT
DEPARTMENT OF TOXIC SUBSTANCES CONTROL
LOCAL FIRE AGENCIES

IN ADDITION, WE HAVE ADOPTED BMP'S FOR THE PROTECTION OF WATER AND AIR RESOURCES SUCH AS:

- WE RECYCLE ALL USED OIL, TRANSMISSION FLUID, ANTI-FREEZE, AND AIR CONDITIONING COOLANT.
- WE CONTRACT ONLY WITH STATE CERTIFIED AND LICENSED WASTE HAULERS AND RECYCLERS TO REMOVE HAZARDOUS WASTES FROM OUR SHOP.
- WE PRACTICE GOOD "HOUSEKEEPING" IN THE SHOP: MINIMIZING THE USE OF WATER WHEN CLEANING FLOORS.
- WE USE "DRIP PANS" TO CATCH LEAKS AND WE CLEAN UP SPILLS PROMPTLY USING "DRY" CLEANUP METHODS.
- WE PRACTICE "DOUBLE CONTAINMENT" FOR STORAGE OF BATTERIES AND HAZARDOUS MATERIALS AND WASTES TO PROTECT STORM AND SANITARY SEWER DRAINS FROM ACCIDENTAL OR CATASTROPHIC SPILLS.
- WE WASH VEHICLES AND CLEAN PARTS IN WAYS THAT PROTECT STORM AND SANITARY SEWERS FROM DISCHARGES OF SOAP, OIL, GREASE, AND SOLVENTS.

Figure 2 Program Information Leaflets

Articles on the Program have appeared in all local newspapers including the Business Section of the Santa Rosa Press Democrat. The Press Democrat has a daily distribution of 100,000. Three other papers with distributions from 10,000 to 30,000 have also run SGB stories.

Sonoma Business Magazine ran a lead story on the program. This publication has a readership of 50,000, with 53% being CEO's and corporate executives with the remainder represented by engineers, attorneys, and other professionals.

Despite the wide range of promotional efforts undertaken, random surveys at shopping malls and community events revealed that less than 20% of respondents had heard of the Sonoma Green Business program. However, a majority of the respondents indicated that they would consider Sonoma Green Business status as a determining factor in their choice of service providers once they were aware of the program. Many indicated this would be the case provided that the cost of services was not significantly more than at non participating businesses.

Another factor has limited the scope of the outreach effort. Local elected officials have expressed concern that only auto repair shops had been offered the opportunity for participation. They have requested that promotional activities on the part of program managers be curtailed until such time as other businesses could be brought into the program. Individual businesses have not been curtailed in their use of SGB status as an advertising tool but have been encouraged to promote their participation. Thus, for 1998 no promotional expenditures were planned by program managers. The planned addition of printers and wineries to the program in late 1998 should resolve this problem. But, based on the disappointing results of past advertising efforts, careful consideration will be given to the most effective use of a limited ad budget.

Program managers have also been disappointed that participants have not taken full advantage of the opportunity to consistently highlight their participation in the program in their own advertising efforts. A small percentage use the Sonoma Green Business logo in their print advertising and in phone directory listings. The majority however, have done little more than display their certifications on site and provide their customers with program informational flyers. At present Sonoma Green Business managers are conferring with owners in a major effort to encourage all participating businesses to stress their Sonoma Green Business status in radio, television and print advertising. Many of the larger businesses advertise daily in all three mediums. Indications are that this approach will be much more cost effective in the public education effort.

4 ENFORCEMENT

4.1 A Costly Lesson, the Role of Criminal Enforcement

In late 1993 the Santa Rosa Police Department formed, what was at the time, one of the first environmental crimes units in the U.S. Spearheaded by Lt. Scott Swanson, the unit, which has no budget, consists of three officers and two supervisors. While they spend most of their time with patrol and other duties, the record of their arrests for environmental crimes is a testament to their effectiveness. (Figure 3)

The unit was formed as a result of instances of environmental crime which had serious repercussions and attracted the attention of the local political establishment and media. One such incident occurred soon after the formation of the Unit. During the night of January 27, 1994 two seventeen gallon drums of carburetor cleaner containing cresylic acid and methylene chloride were dumped directly outside of the gates of the Laguna Wastewater Treatment Plant alongside the road bordering the facility. The drums ruptured, spilling the highly toxic solvent to the ground. When personnel began arriving at the plant the next morning the overwhelming odor of the spilled solvent pervaded the facility. IWCP inspectors quickly located the ruptured drums. Local environmental agencies including the Regional Water Quality Control Board,

Environmental Health Department, and Santa Rosa Fire Department along with the Santa Rosa Police Department were notified immediately. The Health Department declared a Code RED emergency and the Water Quality Control Board advised "...dig fast, far and deep before the solvent reaches ground water". By 3:00 PM on January 28 environmental cleanup specialists equipped with a mobile laboratory, protective clothing, backhoes and tandem semi trailers were brought on site and a cleanup was begun. Soil samples were taken and analyzed continuously as soil was removed until no trace of contamination was detected in the excavation. Ninety six thousand pounds of contaminated soil were removed. It was necessary to transport the material from California to Louisiana for proper disposal. When it was all over the City had spent over \$95,000 USD to investigate and clean up the spill. Despite the best efforts of the Police Department the perpetrators were never identified. The incident served as a wake up call to all agencies involved. Incentives for compliance had their place, but weeding out the environmental outlaws must also be given a high priority. Civil enforcement activities, while effective for most environmental violations, did little to deter the hard core environmental scofflaw. Business owners' complaints of losing business and competitive advantage to these outlaw operators had come home to roost. Subsequent to this incident, Police Department supervisors and officers began attending Sonoma Environmental Quality Assurance Committee meetings regularly.



Figure 3

Article praising Santa Rosa Police Department

With the addition of the Police Department only one element was missing to insure total environmental crimes coverage. Sonoma Environmental Quality Assurance Committee participants reopened lines of communication with Jeffrey Holtzman, Sonoma County Deputy District Attorney, Environmental Division. The Environmental Crimes Division of the District Attorneys office was formed in December 1989. It began full operations in the early 1990s. Mr. Holtzman had previously been of assistance to the City's IWCP in providing information and training on Inspection and Search Warrants and in offering expert advice on the legal implications of the Sonoma Green Business program. IWCP inspectors had also consulted with him regarding issues related to deceptive labeling of over the counter automotive solvents. He enthusiastically supported increased levels of interagency cooperation. The full participation of the Police Department and the District Attorneys Office in environmental enforcement activities closed the loop on environmental regulation and enforcement in Santa Rosa and Sonoma County.

4.2 Leveling the Playing Field

Sonoma Environmental Quality Assurance Committee served as a conduit for exchange of information between regulatory agencies and law enforcement in Sonoma County. Agency personnel provided training to the police personnel on the recognition of hazardous waste and the dangers posed by exposure, environmental regulations and ongoing civil enforcement activities. The Police Department supplied training to agency personnel on police methodology and procedure. Santa Rosa Police Department officers took to their new environmental mandate with a vengeance. Officers on night patrol, on their own initiative, adopted a practice they dubbed "dumpster diving". As time allows, officers on patrol in industrial areas routinely examine the contents of trash dumpsters on industry sites. They look for evidence of illegal hazardous waste disposal, checking container labels for contents and looking for leaking dumpsters and containers. Santa Rosa Police and Fire Department representatives have also provided training for drivers for the local garbage haulers, Empire Waste Management and West County Disposal, on how to spot evidence of illegal waste disposal on their routes and how to protect themselves from chemical exposure and injury. The drivers seem to welcome this new challenge as a way to make their days more interesting and challenging. They express some pride in knowing that they could have a part in environmental protection, a role not usually associated with their profession.

Allegations of environmental crimes reach the unit in a number of ways. By far the most common sources of information are ex-employees who had witnessed illegal disposal or handling of chemicals in the course of their employment. Whether employees act out of a sense of responsibility or anger at being discharged, tips from these sources prove valuable to police and regulatory agency inspectors. Another valuable resource are referrals made by regulatory agency personnel. In some cases of this nature inspectors often suspected illegal disposal but had been unable to develop evidence to support even a civil action.

4.3 Enforcement in the Auto Repair and Service Sector

Given the amount of time and effort expended on the education of the owners and managers of auto repair shops in the course of SGB program development and implementation, it came as no surprise that the need for criminal enforcement activities in that business sector have proved to be minimal. Criminal charges were brought against only one auto service related business during the period from 1994 to 1998. Early in 1997 the Police Department received a tip from a former employee that Galvin Precision Machining, Inc was routinely illegally disposing of hazardous waste (Figures 4 & 5). The Department was joined by IWCP inspectors

and the Santa Rosa Utilities Department in conducting an investigation into these charges. A modified version of dumpster diving was used in the investigation. In this case, Empire Waste Management cooperated by supplying a clean garbage truck to pick up the contents of Galvin's waste dumpsters. The truck was then taken to the City's corporation yard where the contents were examined by Fire Department and Health Department personnel, and Industrial Waste Control Program inspectors wearing protective clothing. Materials were sorted, classified and analyzed and numerous instances of illegal disposal of hazardous wastes including buckets of waste oil, and beryllium, copper, chromium and nickel shavings and chips were documented. Motorized miniaturized video cameras were also lowered into the sewer system at downstream manholes. As the camera moved up the sewer line and into the Galvin sewer lateral it taped evidence of metals residue being discharged to the lateral through shop sewer drains.

Santa Rosa Authorities Go Underground to Detect Illegal Disposal

Sonoma County Deputy D.A. Jeffrey Holtzman has announced the indictment of a machine shop owner on 13 felony and six misdemeanor counts of illegal disposal of hazardous waste and materials. The indictments were filed by the D.A. against Galvin Precision Machining, Inc. and its owner James Francis Galvin. The D.A. was able to obtain the indictments, because of an aggressive investigation by the Santa Rosa Police Department, which literally tapped into the sewer to obtain some of the damaging information, and diverted a garbage truck to obtain the rest.

The Santa Rosa P.D. was tipped off by a former Galvin employee that the company was routinely illegally dis-

posing of hazardous waste. Department officers dropped videotape equipment into the sewer system using manhole covers and videotaped heavy metal residue coming from the shop. The residue included copper and chromium shavings that apparently was contained in waste water dumped into the company's toilet. The officers also accompanied city garbage men on their regular stop to pick up the company's garbage. However, they then diverted the garbage truck from the county dump to the city corporation yard, and examined the wasteload obtained from the company. They found large piles of metal chips and shavings, along with buckets of waste oils. The metals included beryllium, copper, chromium, and nickel.

Galvin faces possible jail time and a penalty of as much as \$150,000.

Santa Rosa Press Democrat
November 21, 1997

No contest plea in SR hazardous waste case

Shop owner to pay \$50,000

By CLARE HASKIN
Staff Writer

The owner of a Santa Rosa machine shop accused of illegally dumping heavy metal shavings and contaminated waste oil has pleaded in court to two violations of Sonoma County laws and agreed to pay \$50,000 in restitution.

James Galvin, owner of Galvin Precision Engineering, agreed not to contest a misdemeanor against him, at \$400 a day, for a felony charge against his corporation, in exchange, the Sonoma County District Attorney's office agreed to dismiss more than a dozen other hazardous waste violations.

Galvin believed he was innocent and was consulting with the law, but decided to make the plea rather than fight the case, according to his attorney, Richard Scott of South Ross.

"Even though Galvin Precision believed it was not up to the \$100,000 amount, these cases can be very costly both for business and taxpayers," Scott said.

He said it was easier for his client to agree to pay \$50,000, knowing the restitution money will be directed toward the purchase of a hazardous materials removal vehicle for the Santa Rosa Police Department.

Galvin was given a 30-day period to appeal but withdrew this week and paid on three years probation by Municipal Court Judge Patricia Gray.

The case was brought against the southeast Santa Rosa company on Fremont Avenue after months of investigation, started this year by the Santa Rosa Police Department's environmental crimes unit. Officers were undercover and videotaped via manhole covers

where they videotaped heavy metal residues in the sewer pipes coming from the shop.

They also made deals with garbage men in order to examine the refuse. The machine shop was settling in the county dump. According to police, they found large piles of metal chips and shavings along with buckets of waste oils that should have been disposed of at a special toxic waste site.

District Attorney Scott said Galvin believed he was in full compliance with the law and was given probation in lieu of "sticker" fines in the summer and some liquid alternatives to the sewer system.

"You can call up three different agencies and they do the three different stories," Scott said.

He said it is believed that a diagnosed employee, fired for theft and later found dumping in the property, informed the business and then called the police claiming knowledge of waste residues.

Deputy District Attorney Jeffrey Britton, supervisor of the Environmental and Consumer Law Division, said "all of those things were reviewed and considered in assessing both the nature of the charges filed as well as the nature of the disposition that was ultimately reached."

The first violation charged involves waste from Galvin's operation was being discharged in places they should not have gone and which could have posed a threat to public safety and health.

Scott said Galvin never received any warning that he was violating the law before being cited by authorities.

"You don't have to be a bad person to end up in this position and it could cost you your whole business," he said.

Holtzman acknowledged that the business "at this point, it had made its case and starting forward."

Figures 4 & 5 Tip that Galvin was illegally disposing of hazardous waste

On July 23, 1997 thirteen felony and six misdemeanor indictments for illegal disposal of hazardous waste and materials were filed against Galvin by the District Attorney. In November of 1997 the owner pleaded no contest to one misdemeanor and one felony charge against his corporation. He received a six month suspended jail sentence, was placed on three years probation and ordered to pay \$50,000 USD in restitution. The restitution money was earmarked for the purchase of a hazardous materials response vehicle for the Police Department. The case was reported by print and broadcast media both locally and regionally.

4.4 Sonoma County's First Environmental Crimes Conviction - Cooperation Equals Success

The Galvin case was the exception in the auto repair and service sector. Auto shops in general have, in the years since SGB program inception, proved to be responsible environmentally and have remained free from the need for criminal enforcement activities. Not all businesses in Sonoma County however have emulated that record. But the cooperative relationship between environmental agency personnel and law enforcement has had a significant impact on criminal non compliance across the board.

The first case of documented environmentally related criminal activity in Sonoma County occurred in 1993. This case led to the first successful prosecution of environmental crime in County history. The case resulted from an investigation of Diablo Chemical, a cleaning products manufacturer, which was initiated after a tip from former employees. (Figures 6 & 7) The ex-employees reported that they were directed by their bosses to place containers of corrosive or toxic waste in a trash bin. Industrial Waste Control Program inspectors had long suspected wrong doing at this location but had been unable to develop proof. Based on the tip however, a three month cooperative investigation began involving Santa Rosa Police and Fire Departments and IWCP personnel along with the Environmental Health Department, Regional Water Quality Control Board, and the Department of Toxic Substances Control. The investigation resulted in misdemeanor and felony indictments for illegal disposal of hazardous waste.

This was the first case in which the modified version of "dumpster diving" described above was used. As in the Galvin case, Empire Waste Management supplied clean garbage trucks to pick up the contents of Diablo's waste dumpsters. During examination of the dumpsters' contents investigators documented numerous instances of illegal disposal of hazardous wastes including methylene chloride, and high and low pH wastes. The procedure continued for several weeks. Surveillance cameras were also mounted with a clear view of the Diablo's dumpsters. These cameras documented that the wastes were actually placed in the dumpsters by Diablo employees or managers. Meanwhile IWCP technicians placed programmable automatic samplers in the sewer line serving the facility to detect unauthorized discharges.

San Francisco Chronicle
April 5, 1995

■ NORTH BAY

No Contest Plea Entered In Toxics Dumping Case

Santa Rosa — Sonoma County won its first felony hazardous waste conviction yesterday when the owner of a cleaning products company pleaded no contest to charges of dumping toxic chemicals down a Santa Rosa sewer.

Diablo Products owner Dennis Clark was ordered by Municipal Court Judge Mark Tansil to pay \$50,000 in fines and serve a six-month sentence on electronic confinement.

Clark, who moved his business to Nevada several months ago, pleaded no contest to one count of illegal hazardous waste disposal. Prosecutor Jeff Holtzman had originally filed six felony counts against Clark.

The guilty plea sends a message that "those businesses who do not comply with environmental law now face stiffer penalties and sanctions," Holtzman said.

Ronald Schwab, general manager of Diablo Products, also entered a no contest plea to a downgraded misdemeanor count of illegal hazardous waste disposal. The plea bargaining included dismissal of five other felony counts against Schwab.

Judge Tansil ordered Schwab to pay \$10,000 in fines and serve 90 days on electronic confinement. Schwab, a Reno resident, continues to work for Diablo Products.

The prosecution agreed to a dismissal of charges against the company, but Holtzman said he is leaving the door open for a future civil suit against the business.

On July 27, 1994, the Santa Rosa police environmental crimes unit raided Diablo Products after an investigation showed that Clark and Schwab were routinely dumping toxic cleaning fluids such as methylene chloride and toluene into a city sewer drain and a dumpster.

Toxic

Continued from Page A1

warehouse on Lotus Court, off Frazier Street, that houses several small businesses.

Lt. Scott Swanson, supervisor of the police environmental crimes unit, said an inter-agency investigation was begun after a disgruntled former Diablo Products employee telephoned police nearly three months ago.

The ex-employee said the bosses at Diablo Products directed workers to place containers of corrosive or toxic wastes in the trash bin, for delivery to the county landfill, or to pour them into a sink, drain or toilet.

State law requires the disposal of hazardous wastes in a specially licensed dump.

Swanson said that during the investigation police brought a clean garbage truck to the business and hauled off the contents of the trash bin.

"We found there indeed was a regular flow of materials" into the trash bin, he said.

Jeff Holtzman, the deputy district attorney who oversees prosecution of environmental and consumer crimes, said police recovered more than 100 gallons of discarded industrial-strength cleansers and chemicals used in their production.

Authorities said the illegally dumped wastes included the solvents methylene chloride and toluene, lye, bleach, methyl alcohol and ethyl alcohol.

Swanson said that in the midst of the investigation police also had the city monitor flows into the sewer from drains and toilets at Diablo Products. He said evidence was found that plant employees had poured chemicals into the sewer.

Holtzman said the company, which moved to Santa Rosa some years ago from the East Bay, employed four to six people. He said the District Attorney's Office has yet to decide whether to seek charges against anyone other than Clark and Schwab.

Holtzman said a continuing investigation will seek to establish how long Diablo Products officials and workers have been dumping corrosives and toxins in the trash bin and down the drains. The arrest warrants, based on information gathered in the investigation, accuse Clark and Schwab of six felony counts each.

He said the firm does not have a state license for the disposal of hazardous wastes and there is no other evidence it got rid of such waste by any legal means.

Two arrested for toxic waste dumping



The Diablo Products case marks the first time the district attorney has sought felony charges against an alleged hazardous-waste polluter. In the past, Holtzman's office has handled illegal-dumping cases in civil court or with misdemeanor criminal charges.

The prosecutor said he is seeking felony charges against Clark and Schwab because they are in the chemical business and presumably know the hazards presented by corrosives and toxics.

"It's a very serious case involving chronic, blatant disregard of environmental safety laws," he said.

Figure 6 Diablo Chemical Toxic Dumping

Santa Rosa Press Democrat
July 23, 1994

SR company's top people charged with toxic dumping

By CHRIS SMITH
Staff Writer

Police jailed the owner and manager of a Santa Rosa cleaning-products firm Wednesday on suspicion they dumped dangerous wastes in a landfill-bound trash bin and down the sewer.

Diablo Products Corp. owner Dennis Clark and general manager Ronald Lee Schwab are the first Sonoma County businessmen to face felony charges of illegally disposing of hazardous chemicals.

A judge set bail for each at \$50,000. Police carrying arrest and search warrants were waiting Wednesday morning when Clark, 55, and Schwab, 32, arrived for work at the small production-and-distribution shop in an industrial pocket off Petaluma Hill Road. Diablo Products bottles industrial cleaners for use by restaurants and other businesses.

After the suspects were handcuffed and jailed, police detectives aided by firefighters and industrial-waste officials spent most of



JEFF KANLOR/PRESS DEMOCRAT

Santa Rosa fire inspector Eileen Kortas gets equipment ready Wednesday to gather evidence at Diablo Products Corp.

the day collecting evidence at the shop. Diablo Products is located in an industrial
See Toxic, Page A9

Figure 7 Diablo Chemical Toxic Dumping

When a search warrant was served on the facility in July of 1994 the strike team consisted of representatives of the Santa Rosa Police and Fire Departments, Industrial Waste Control Program, Health Department, Department of Toxic Substance Control and the District Attorneys Office. While the Police Department and Toxic Substances Control personnel pored over company records, the remaining agencies took samples from product formulations, sink traps, sewer drains and dumpsters, and performed analyses and sorted and classified chemical evidence. Samples taken from the traps and drains were compared with those taken downstream in the sewer system. The comparison confirmed that the source of pollutants found

downstream was Diablo Chemical and not other users discharging in the same area. The records review included review of the manager's daily note book. His notes were found to contain reminders to place certain hazardous wastes in dumpsters on specific days. Hazardous wastes were once again found in company dumpsters during the search. Analyses, of samples taken from sewer drains revealed the presence of high concentrations of methylene chloride and toluene and pH levels as low as 2.0 and as high as 12.

Armed with the overwhelming evidence gathered over the three month course of the investigation the District Attorney obtained felony and misdemeanor indictments against the company's owner and manager. On April 4, 1995 both pleaded no contest to a charge of dumping toxic chemicals down a sewer and were convicted and sentenced to six months and 90 days of electronic confinement respectively. The owner was also required to pay \$50,000 USD in fines and restitution. The manager was assessed a \$10,000 fine. Proceeds of the fine were allocated as restitution to the Santa Rosa Police and Fire Departments, Environmental Health Department, IWCP and the District Attorneys office. The money was earmarked for continuing training in hazardous materials investigations.

4.5 Defusing Environmental Time Bombs - Continuing Successes

Environmental Agency inspectors have acted as the very effective eyes and ears of the law enforcement community in Sonoma County in a number of environmental cases since 1994. The case against Michael Inks (Figures 8 & 9) is a good example. Industrial Waste Control Program inspectors are encouraged to be on the lookout for possible unknown sources of discharges to the sanitary sewer. In August of 1995 a city environmental inspector noticed an open door on a wood frame Quonset type warehouse building on the edge of Santa Rosa's downtown and directly adjacent to a residential neighborhood. Curious as to what activities were taking place within, he decided to investigate. Looking into the open door he was alarmed to note that the entire structure was filled to the rafters with what appeared to be hundreds of rusting containers of paints and chemicals. He was met by Mr. Inks who informed him that he was a paint recycler and that the contents of the warehouse consisted of unused partially full containers of paint that he would blend into new product. Mr. Inks was informed that he needed permits to carry on that activity and that the inspector was required to report the presence of the facility to the appropriate regulatory agencies. The Health Department and Santa Rosa Police and Fire Departments were notified. On September 1, 1995 a multi agency team armed with a search warrant visited the facility. Their inspection revealed what police Sgt. Brad Marsh later called "...a disaster waiting to happen." Investigators found containers of paint thinner, solvents, acids, latex and oil based paints and a variety of other hazardous materials in buckets and containers in various stages of decay stored haphazardly throughout the structure. Some materials were actually found stored in the rafters. Fire Department inspectors also noted numerous electric and building code violations. The proximity of the warehouse to a residential area was especially troubling. Single family homes were located directly next to and across the street from the building. Mr. Inks was immediately arrested and charged with illegal storage and disposal of hazardous waste and reckless disregard for public safety.

Santa Rosa Press Democrat
November 22, 1995

Paint storage owner jailed

The owner of a paint business was sentenced to 90 days in jail Tuesday after pleading no contest to a charge of illegally storing hazardous waste.

Michael Inks, 40, of Santa Rosa, was arrested in early September after members of Santa Rosa Police Department's environmental crimes unit raided a warehouse at Cleveland Avenue and 11th Street.

Authorities said the warehouse was full of dangerously stored paint, paint thinner and lacquers that presented a toxic hazard and potential for fire.

Since his arrest and posting bail, Inks has disposed of many of the more dangerous items, according to Jeffrey Holtzman, supervisor of the Sonoma County District Attorney's environmental and consumer law division.

Holtzman said Inks will be eligible for work release while serving his jail time.

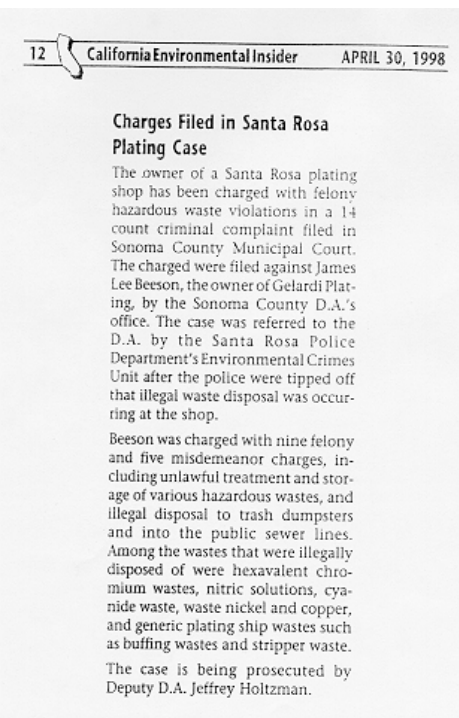


Figures 8 & 9 Michael Inks arrested

On November 21, 1995 Inks pleaded no contest to the charge of illegally storing hazardous waste and was sentenced to 90 days in the County Jail. He was also ordered to clean up the warehouse and properly dispose of the wastes. Mr Inks had already accomplished much of that task under the supervision of the Environmental Health Department subsequent to his arrest and release after posting bail.

The latest environmental crimes case to be brought in Sonoma County came about as a result of routine sampling and observation of industrial process discharges to the sanitary sewer by Industrial Waste Control Program technicians. (Figures 10 & 11) Discharges from Gelardi's Plating Shop are routinely sampled by Santa Rosa IWCP personnel. Samples are taken continuously for four days per quarter to confirm compliance with National Discharge Standards promulgated by US EPA and Technically Based Local Limits developed by the Laguna Treatment Plant. Gelardi's Plating is an older job shop electroplating operation performing copper, zinc, nickel, and chrome plating and polishing. During the first week of January of 1998 personnel on routine sampling duty noted a yellow hue to the discharges from the Gelardi shop. A discharge of highly toxic hexavalent chrome was suspected. Over the next days of sampling and subsequent analyses the yellow hue was indeed determined to be the result of the discharge of hexavalent chromium at levels in excess of both Federal and local discharge standards. The limits for the discharge of Total Chromium set forth in the Code of Federal Regulations is 2.77mg/L on a daily basis and 1.71 mg/l monthly average. Technically

Based Local Limits set allowable discharge limits at 0.1 mg/l. Analyses of discharge samples revealed levels of hexavalent chrome as high as 340mg/l over the four day sampling period. Industrial Waste Control Program management immediately prepared a Cease and Desist Order and terminated water and sewer services to the facility. Previous sampling at Gelardi's over a period of many years had at times revealed minor limit violations which had been addressed through civil proceedings. Regular inspection of the facility had also uncovered instances of improper handling and labeling of plating wastes which had also been addressed civilly. Changes in shop ownership and management however had led to the more serious conditions that were soon revealed.



Figures 10 & 11 Charges filed for discharge of hexavalent chromium

Immediately upon verification of the discharge violations the Health Department, Santa Rosa Police and Fire Departments and the District Attorney were notified of the situation. A multi agency investigation was initiated. On January 21, 1998 the shop was quarantined and a search warrant issued by the District Attorneys Office. Thorough inspection of the facility revealed potentially lethal problems now existing in the shop. Investigators discovered process plumbing leaks which were responsible for the discharge violations as well as evidence of illegal storage,

treatment and disposal of hazardous waste. Most ominously, Fire Department investigators discovered a drum of cyanide waste stored between two drums of acid. The mixing of acids and cyanide wastes in an accident or earthquake would create a lethal cloud of hydrogen cyanide gas. Shop owner James Lee Beeson denied any wrongdoing. On March 27 1998 Beeson was indicted and charged by the District Attorney with 14 felony counts of hazardous waste disposal, storage and handling. A trial date has not been set as of this writing.

These investigations and prosecutions of environmental crimes, examples of 10 that have occurred since 1994, have only been possible because of the close cooperation of all local environmental, police and prosecutorial agencies. The combined resources, knowledge and expertise of all participants have contributed to this outstanding record of success.

5 A FORMULA FOR SUCCESS

5.1 Agency Limitations

Environmental Agencies are limited in the scope of their enforcement powers. They are granted authority to perform inspections on private property, collect samples and apply and enforce civil penalties for non compliance. Those powers enable local agencies to maintain compliance with environmental regulations within the majority of the business community. In Sonoma County the majority of business owners have been found to be upstanding environmental citizens. Even in cases of violation, civil actions have been sufficient to reestablish compliance in most cases. Agency inspectors have not routinely been trained in criminal investigation techniques and police procedure, nor are they granted criminal enforcement powers.

This situation has enabled Sonoma County Environmental Agencies to form cooperative relations with the business community and to provide recognition for environmental responsibility in the form of the Sonoma Green Business Program. Lacking, was the ability to deal decisively with the environmental outlaws; those, who for whatever reason, choose to ignore regulations and endanger themselves, their neighbors and the environment in the process. In the early 1990s it became apparent that serious environmental crimes were being committed in Sonoma County and that the local environmental establishment must devise a way to get tough with the environmental outlaw.

5.2 Agency Cooperation

From inception, the core concept of the Sonoma Green Business Compliance Incentive Program has been total compliance with all environmental regulations. It is intended to recognize modern, progressive businesses which make pollution prevention and environmental protection integral parts of their business operation and ethic. To qualify, a business must be in compliance with air, water, worker protection, recycling and waste disposal regulations. Traditionally in the U.S. multiple local agencies administer these varied regulatory programs. In order to assure program validity, it is necessary therefore that all of the environmental regulatory agencies with jurisdictions in Sonoma County cooperate in design, implementation and expansion of the program.

Environmental agency inspectors had been operating within their respective areas of expertise in relative isolation without a complete knowledge of the activities of their counterparts prior to 1992. With the inception of SGB and the formation of SEQAC, front line inspectors began a program of cross training which led to enhanced understanding of the totality of

environmental requirements for all participants. This led in turn to enhanced compliance levels and improved cooperation amongst agencies and between business and regulators. Local environmental agency cooperation is absolutely necessary in any successful environmental regulatory strategy.

5.3 Local Criminal Law Enforcement Closes The Gap

Historically in California local police agencies and prosecutors have not been involved in criminal enforcement of environmental regulations. This role was left in the hands of state and federal authorities.

Local authority for criminal enforcement of environmental regulations in Sonoma County was established with the formation of the Environmental Division of the Sonoma County District Attorneys Office in 1989 and the Environmental Crimes Unit in the Santa Rosa Police Department in 1993. The entry of these agencies into the environmental regulatory arena ushered in a new era in environmental compliance and enforcement in Sonoma County. Their participation in SEQAC and their cooperation with existing regulatory agencies allowed for coverage of all contingencies related to these issues. From the SGB Incentive Program for environmental compliance to criminal prosecution of environmental crime the “cooperation before confrontation” and “education before litigation” concepts engendered in Sonoma Green Business and SEQAC serve to level the environmental playing field for area businesses.

The cooperating regulatory agencies provide the assistance that the environmentally pro-active portion of the business community needs to stay in compliance. The problems of conflicting compliance information provided by the various agencies is largely eliminated through the ongoing cross training and information sharing efforts of Sonoma Environmental Quality Assurance Committee. Businesses at the forefront of environmental compliance and pollution prevention are provided with public recognition of their efforts through the Sonoma Green Business program.

The “education before litigation” philosophy adopted by environmental regulators provides those businesses which experience minor problems with environmental regulations and compliance the opportunity to correct problems in a timely manner without fear of fines or other legal action. It has enabled business and regulators to work cooperatively to solve problems. It also facilitates open communication and largely eliminates hostility toward regulators on the part of businesses.

The entry of law enforcement and prosecutors into the local environmental arena has produced vigorous investigation and prosecution of serious environmental crime. Aided in their investigations by all SEQAC environmental agencies, police and prosecutors develop strong cases and win consistent convictions based on the overwhelming weight of scientific evidence. Wide reporting on successful environmental crimes prosecutions and convictions by local and regional news media serves public notice that local authorities are dedicated to leveling the playing field. It has provided clear and consistent proof that non compliance with environmental regulations provides no competitive advantage and that deliberate serious violations of environmental law will be dealt with swiftly and harshly.

The success of environmental compliance and enforcement activities in Sonoma County over the past four years has been a direct outgrowth of the cooperation that was required amongst agencies to successfully implement the Sonoma Green Business Program. It is only through the cooperation of all local regulatory and law enforcement agencies that this success has been achieved. By initiating and continuously supporting this approach the City of Santa Rosa’s IWCP has insured that reclaimed water and biosolids produced by the Laguna Wastewater Treatment Plant meet Federal State and local standards for recycling and reuse

and has played a major role in environmental protection throughout the county. It is expected that the development of Compliance Incentive Programs in all nine San Francisco Bay area counties along with the attendant need for interagency cooperation in program development and implementation will produce results similar to those experienced in Sonoma County.

6 EXPANDING THE CONCEPT - COMPLIANCE INCENTIVE PROGRAM PROGRAM, REGIONAL DEVELOPMENTS 1994 - 1998

6.1 Bay Area Green Business Program

Early in 1994 CAL EPA reached a settlement with Stanford University over severe hazardous waste violations. CAL EPA allocated a portion of this settlement (\$75,000) to fund development of a Bay Area Green Business Recognition Program, (BAGBRP). The program was coordinated through the Association of Bay Area Governments (ABAG). ABAG's primary goal was the creation and implementation of a fully integrated environmental compliance/resource conservation recognition program. The BAGBRP modeled the Sonoma Green Business Program for the compliance incentive aspect and the Santa Clara Pollution Prevention Program as the resource conservation/pollution prevention strategy. Any business wanting to be recognized as a Bay Area Green Business, had to demonstrate full environmental compliance and employ Best Management Practices in energy conservation, water conservation, solid waste reduction, and pollution prevention. In the development of a regional comprehensive environmental incentive program several additional goals were set by ABAG, including:

- developing pledges for participating businesses and governmental agencies;
- creating a single, recognizable logo that could be used in all 9 Bay Area counties;
- developing program standards which would define what a "Green Business" is;
- developing industry-specific checklists of these program standards (i.e. taking the generalized program standards and making them industry-specific);
- developing a comprehensive public awareness strategy for logo recognition; and
- identifying two of the nine Bay Area counties where the highest probability of success existed.

6.2 Bay Area County Assessments

The program planning process began by developing an assessment tool for the nine Bay Area counties to determine the best areas in which to initiate pilot programs. Presentations were made to key players in eight Bay Area counties, (one county declined to participate), Ratings were made based on 9 criteria including:

- attendance (the number of people that showed up to each presentation);
- number of distributed surveys returned at the end of the presentation;
- number of regulatory agencies and resource conservation departments represented at the presentation;
- number of elected officials represented at the presentation;
- willingness of counties to participate in the implementation of the program;

- degree of management support from all regulatory and resource conservation agencies;
- existence of past or present recognition programs;
- evidence of on-going multi-media coordination between the agencies, and level of agreement on priority industries targeted for initial focus.

Results of the rating process were submitted to the ABAG committee and two counties, Napa and Alameda, were selected to begin the pilot implementation of the BAGBRP.

6.3 Pilot Implementation

After completion of assessments of the nine Bay Area counties, ABAG received a generous grant from US EPA to fully fund the development and implementation of the program. ABAG selected Environmental Learning Systems, Sebastopol, CA to assist in the implementation of the pilot projects. Full scale implementation efforts began in 1995/96. The two counties selected presented key demographic differences that helped identify the core elements of the implementation pilots that would be necessary for rapid deployment of the model throughout the rest of the Bay Area. A key difference between the counties is demographics. Alameda County is densely populated – 17 cities with a total population base of over 1.5 million people – with a large number of auto repair shops, (over 800). By comparison Napa County has only one major city and 6 smaller cities, with a total population base of about 250,000 people, with the majority of the 120 auto repair shops in one city, (80+ in the City of Napa). Both of the counties formally entered the pilot process by bringing together representatives from each participating agency, both regulatory and resource conservation. One of the key elements of the BAGBRP was the use of the concept developed in the Sonoma Green Business Program of convening a monthly multi-agency meeting such as the Sonoma Environmental Quality Assurance Committee group in Sonoma County. These “roundtable groups” in each county had the initial task of determining the priority industry on which they initially wished to focus. Both counties elected to begin with the auto repair industry which was also selected in all other participating Bay Area counties. Counties also had the option of selecting a second industry, a choice only Napa exercised in choosing wineries.

6.4 Developing Regional Elements

While the implementation process was being developed in the two pilot counties, the ABAG committees were busy developing additional elements of the regional program. Among these, one of the most important, was the translation of the General Program Standards into industry-specific checklists for the automotive repair industry and the wine industry. Comments obtained from representatives of these industries indicated that having industry-specific compliance and resource conservation information was very helpful and an important component for participation in the program. Other elements that added a comprehensive regional aspect to the program include;

- Program description for government;
- Program description for businesses;
- Guidance Document for Implementing Agencies;
- Sample County resolution;
- Sample Certificate of Compliance;
- Green Business Program Policy Guide; and

- Revocation Policy.

6.5 Program Kick-offs

After one year of focused facilitation in both Alameda and Napa Counties, both were able to kick-off their programs with the automotive repair industry. Alameda County was able to secure another grant from US EPA to fund a part-time BAGBRP coordinator. Their program went into effect in November of 1996. The initial outreach to the automotive repair facilities in Alameda County generated 10 businesses that volunteered for the program. Currently, Alameda County has recognized 14 businesses as being "Green" and has begun the process of expanding the program to the printing industry. Napa County was able to initiate its program in April 1997 without the aid of additional funding. Six shops there have volunteered and been recognized in the BAGBRP. The winery program is scheduled to begin in August 1998.

6.6 Program Incentives

Incentives provided in the BAGBRP vary between counties. Some counties (Sonoma, Napa, Contra Costa) have offered a reduction in permit fees as an incentive to recognized businesses. Incentives also include sliding inspection schedules, ranging from 1 year for some participating agencies to a 2 or 3 year cycle in others. Another incentive allows some small businesses to totally eliminate their permit fee for hazardous waste generation if they qualify as a Small Quantity Generator. In these cases counties allow disposal of small quantities of hazardous waste by participating businesses at no charge. Qualifying small businesses are allowed to bring limited quantities of waste to county sponsored "household hazardous waste pickup days". Another developing trend which serves as an incentive is the reduction of insurance rates for BAGBRP participants.

6.7 Program Benefits

While the BAGBRP has been gaining momentum for a regional launch, many early program benefits have already been realized. Foremost, no other program yet identified has developed industry-specific multi media checklists that integrates environmental compliance and resource conservation information. This has been accomplished for 3 separate industries (auto repair, wineries and printers) with work in progress for dry cleaners. These checklists are evidence of the cooperation and communication that has been established between agencies which had become accustomed to working in relative isolation from each other.

This multi-agency cooperation is one of the primary benefits of the BAGBRP. In each county implementing the program, regulatory personnel and resource conservation staff have come together in regular meetings to build a program according to the unique needs and requirements of their particular community. In two of the four implementing counties these regular BAGBRP meetings have expanded to include additional information on other environmental issues, both regulatory and resource conservation oriented. In the short span of three years the BAGBRP has been implemented in four counties, with a fifth scheduled to begin implementation in July 1998. This takes the program past the half way mark in its goal of including all nine Bay Area counties by the year 2000. While the look and feel of the program may vary slightly between the counties, the General Standards are the same, as is the logo and the operating policies.

The BAGBRP is demonstrating that regulated businesses can go beyond environmental compliance to achieve comprehensive resource conservation standards and that this information has value to the businesses, and to their customers. To date, over 30 businesses in the participating counties have been able to achieve full environmental compliance and complete the requirements of the resource conservation standards. The accomplishments of these businesses stand as evidence that easy access to environmental information is an important aspect of today's information intense economy.

Finally, one of the most telling benefits comes from the two largest participating environmental agencies, CAL EPA and US EPA. Until 1997 neither agency had an official designated position related in any way to Green Business program coordination. Now, both agencies have created positions for this important coordinator role. Coordinators have been charged with promoting development of cooperative multi-agency operating systems throughout their jurisdictions. Once in place these individual systems act as a "one stop shop" for, permits and compliance and resource conservation assistance and information.

While there is much to be excited about, the BAGBRP has identified some challenges and barriers in its attempt to implement new environmental protection concepts in various counties. These challenges and barriers include:

- Compliance vs Assistance Cultures-- A large philosophical difference exists between the regulatory agencies that focus on environmental compliance, and the resource conservation agencies that provide assistance to businesses reaching out for educational services. These agencies have had little previous experience interacting to address environmental issues. Since many resource conservation experts use the phrase "I'm not a compliance officer" as a marketing tool in approaching businesses, there has been some resistance on their part to accompany regulatory personnel on inspections. In addition, there is also some resistance from regulatory inspectors related to doing anything beyond compliance enforcement, such as providing solid waste reduction information, during an inspection. However, some of the inspectors are already assisting shops by providing information on pollution prevention and are now beginning to realize that it's not a big stretch to provide some solid waste and water conservation information at these same facilities.
- Database Structure--Each regulatory agency operates their own database system and tracks their own compliance or resource conservation information. Integrating these databases, or even a portion of the information contained in these systems, has been a major challenge. The Internet and World Wide Web are not yet available to many of these agencies, and sharing information via electronic mail is generally not presently possible, either internally or between agencies. One of the biggest obstacles currently is the development or purchase of a unified data handling program for use in tracking information on "Green Businesses." This problem may necessitate building separate data systems for program implementation and tracking, or outsourcing this data service to the private sector
- Sustainable Funding—A major conflict is inherent in the funding mechanism for a Green Business Program. In some of the participating counties, especially the smaller ones, operations are funded through a General Fund. In the larger counties regulatory agency funding is primarily generated through permit and inspection fees. One of the problems inherent in the BAGBRP today is the

difficulty of developing a funding strategy based on charging a fee to businesses wanting to be verified as being a participating green business. Resistance to any new fee by the business community presents a significant obstacle. As a result, all participating counties are attempting to incorporate this service within the existing permit fee structures. A major difficulty arises because a regulatory agency that charges a business a permit fee to generate and handle hazardous waste, is in jeopardy of losing all or a portion of that fee if the business becomes more environmentally educated and reduces or eliminates its hazardous waste generation. It is conceivable that some businesses will drop out of the regulatory structure altogether. So, in fact, as the system is designed at present, businesses that make use of non sustainable environmental practices by generating and disposing of hazardous waste rather than developing alternative strategies are allowed to do so provided that a fee is paid to the regulatory agency. Once a business stops using or generating hazardous materials and/or wastes the agencies are faced with a reduction or elimination of their revenue stream. What the BAGBRP has determined is that the increase in positive environmental awareness or environmental responsibility on the part of the business community may have a negative impact on environmental agencies, by reducing or eliminating their ability to generate fees. The challenge, then, is how to generate a revenue stream to the agencies based on positive sustainable environmental behavior.

- Organizational Challenges--Regulatory agencies, and to some degree resource conservation agencies, have not generally been customer service-oriented and do not think like a business. This means that the government has a very difficult time in the public awareness/public outreach aspects of the BAGBRP. As previously mentioned, public education and awareness efforts have had mixed results. That is primarily based on the fact that many of these government agencies believe that they have to create a marketing program to help the businesses market the Green Business logo. In fact, this may not be the case. Based on experience with auto shops and wineries indications are that the real desire of the businesses is for the regulatory agencies to create a strong public outreach program so that the public recognizes the logo, and the businesses can then create their own marketing strategy internally to leverage that awareness to their own marketing advantage.
- Small Quantity Generator focus--The design of an incentive program for mid-level industry sectors such as wineries and dairies necessitates a different strategy and a different use of the logo. The BAGBRP has found for instance, that the winery program needs to include vineyards as well as the wineries themselves in order to certify an entire process, from grape to bottle, as a Green Business operation. This is in part due to the fact that the use of the logo for vineyard operators has very little meaning since the customer, the public, does not buy grapes directly from the vineyards to make wine. Vineyards are an integral part of the supply chain for wineries, and this relationship necessitates a different strategy and commitment from the wineries to help identify some incentives to induce vineyard operators to participate in the program. Wineries for instance might pay their vineyard operators an extra 10-15 cents per ton of grapes if they meet the criteria as a recognized Green Business.

As indicated, the development of a comprehensive Bay Area region wide Green Business program does present significant challenges. By employing the “cooperation before confrontation” strategy pioneered in Sonoma County however, each of the Bay Area counties is making significant progress. The ongoing success of the Sonoma County program, despite obstacles, is a strong indication that vastly improved environmental compliance and enforcement region wide are achievable goals.