

mTC-1396-1337

M06-01395

Klamath County, Oregon

01/24/2006 10:32:35 AM

Pages 8 Fee: \$56.00

RECORDING COVER SHEET

THIS COVER SHEET HAS BEEN PREPARED
BY THE PERSON REPRESENTING THE
ATTACHED INSTRUMENT FOR RECORDING.
ANY ERRORS IN THIS COVER SHEET DO NOT
AFFECT THE TRANSACTION(S) CONTAINED
IN THE INSTRUMENT ITSELF.

**After Recording, Return To: Steve Killian
3815 Bisbee Street
Klamath Falls, Oregon 97603**

**1. Name(s) of the Transaction(s): Contaminated Aquifer Policy
Environmental Investigation/Hazardous Waste Agreement**

2. Direct Party (Grantor): Steve H. and Rozalia M. Killian

3. Indirect Party (Grantee): Weyerhaeuser

4. True and Actual Consideration Paid: not applicable

**5. Legal Description: The E1/2 SW1/4 of Section 12, Township 36
South Range 12 EWM, Klamath County, OR**

AMERITITLE has recorded this
instrument by request as an accomodation only,
and has not examined it for regularity and sufficiency
or as to its effect upon the title to any real property
that may be described therein.

56.00



Oregon

Theodore R. Kulongoski, Governor

Department of Environmental Quality

2146 NE 4th Street, Suite 104

Bend, OR 97701

(541) 388-6146

Eastern Region

Bend Office

December 12, 2003

Mr. Steve Killian
3815 Bisbee St.
Klamath Falls, OR 97603

RE: Contaminated Aquifer Policy
T36S R12E, Sec.12, W.M., TL 5000
Klamath County, OR

Dear Mr. Killian,

The Department of Environmental Quality (DEQ) has reviewed the available information regarding the environmental investigation and subsequent remedial actions undertaken on the subject property (Killian property, tax lot 5000 on attached map) and at the adjacent Weyerhaeuser Sycan Shop property (tax lot 4600). Based on that information, DEQ has determined that the Killian property meets the definition of an "impacted property" as defined in the DEQ's Contaminated Aquifer Policy (CAP), dated December 12, 1997 (attached).

Specifically, the Department's determination is based on the following information:

1. DEQ issued a Record of Decision for the Weyerhaeuser Sycan Shop site (April 2000, amended in November 2001) that included the southern portion of the Killian property as being affected by the groundwater containing volatile organic compounds (VOCs).
2. The Killian property has only been used for agricultural and residential uses in the past. Prior investigations did not reveal the VOCs of concern were used on the Killian property.
3. Groundwater in the vicinity of the old Killian well contains a similar suite of volatile organic compounds (VOCs) found on the adjacent Sycan Shop property. Those compounds are tetrachloroethene (PCE), trichloroethene (TCE), trichloroethane, 1,1-dichloroethane, 1,1-dichloroethene, and cis-1,2-dichloroethene. Current levels of PCE and TCE exceed a long term acceptable cancer risk equal to one in one million.
4. The groundwater flows in a west-southwesterly direction so that the Killian property is downgradient of the Sycan Shop property.

In summary, DEQ has determined that the hazardous substances identified above and present in groundwater beneath the Killian property have migrated from the Sycan Shop property. Therefore DEQ will not take enforcement action against the owner of the Killian property to require implementation of remedial actions or the payment of remedial action costs associated with the contaminated groundwater.

Mr. Steve Killian
December 12 2003
Page 2

It should be noted that this policy does not apply to any groundwater contamination that is found to have originated from sources on the Killian property. Additionally, if it is shown that due care and reasonable precautions were not taken, the policy would also not apply. For example, if the installation and operation of a future well in the aquifer known to be contaminated exacerbated the contamination you or any subsequent owner/occupant may have responsibility. Additionally, if new information becomes available that shows that Killian property caused, contributed to, or exacerbated the release through an act or omission this determination will be revoked.

Please contact the project manager for the Sycan Shop project, Toby Scott at (541) 388-6146, ext. 246, if you have any questions about this determination.

Sincerely,

A handwritten signature in black ink, appearing to read "Brett McKnight", with a stylized flourish at the end.

Brett McKnight
Cleanup Manager
Eastern Region

NTS

Attachments: Contaminated Auifer Policy
Tax Lot Map

Cc: Toby Scott, DEQ, Bend
Jennifer Bariska, Weyerhaeuser



OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY

Waste Management & Cleanup Division

CONTAMINATED AQUIFER POLICY

I. Background

Throughout Oregon there are numerous sites subject to remedial actions under Oregon Law (ORS 465.200 through .900) due to contaminated groundwater. Natural subsurface processes, such as infiltration and groundwater flow, often carry contaminants large distances from the source of the release. Thus, the plume of contaminated groundwater may extend over a large area.

Any person owning property, or owning or operating a facility on a property, to which contamination has migrated in an aquifer faces uncertainty as to potential cleanup liability. This occurs even where such owner or operator has not participated in the handling of hazardous substances, and has taken no action to contribute to or exacerbate the release. These properties are referred to in this policy as "impacted properties".

This policy addresses the concerns regarding potential liability raised by owners and operators of impacted properties, as well as lenders and prospective purchasers. The intent of this policy is to lower the barriers to transfers of impacted properties and improve the opportunities for beneficial reuse of the property by reducing uncertainty regarding the possibility that the Department of Environmental Quality (DEQ) may take actions against owners or operators with respect to the contaminated groundwater below their property.

II. Statement of Policy

It is DEQ's policy, subject to specific conditions listed below, that where hazardous substances in groundwater have come to be located at a property, solely as the result of subsurface migration from a source or sources outside the property, DEQ will not take enforcement action against the owner or operator of the impacted property to require the performance of remedial actions or the payment of remedial action costs associated with the contaminated groundwater.

This policy is subject to the following conditions:

- A) The owner or operator did not cause, contribute to, or exacerbate the release of hazardous substances identified in the aquifer beneath the impacted property through an act or omission. The failure to take affirmative steps to mitigate or remediate groundwater contamination, such as conducting groundwater investigations or installing groundwater remediation systems, will not, in the absence of exceptional circumstances, constitute an "omission" within the meaning of this condition. This policy might not apply where the impacted property contains a groundwater well, the existence or operation of which may affect the migration of contamination in or between aquifers. These cases will require site-specific analysis.

- B) The person whose acts or omissions caused the release was not and is not an employee or agent of the owner or operator of the impacted property.
- C) The acts or omissions of the person causing the release did not occur in connection with a contractual relationship existing directly or indirectly with the owner or operator of the impacted property.
- D) There is no other basis for the impacted property owner or operator to be liable for the contamination, such as:
- (1) unlawfully causing, contributing to, or exacerbating the release.
 - (2) unlawfully hindering or delaying response actions.
 - (3) failing to notify DEQ of a known release, to the extent such failure exacerbates the contamination.
 - (4) failing to exercise due care regarding known contamination, to the extent such failure exacerbates the contamination.
 - (5) failing to take reasonable precautions regarding the foreseeable acts of a third party, to the extent such failure exacerbates the contamination.

(Note: DEQ does not consider "due care" or "reasonable precautions" to require affirmative steps to remediate groundwater contamination; however, there might be instances, such as the operation or installation of a well in an aquifer known to be contaminated, that would not constitute due care or reasonable precautions and that might exacerbate the contamination.)

This policy statement should meet the needs of most interested parties. DEQ will not be providing release-from-liability letters to owners or operators of impacted property, except in special circumstances. In those situations where a more formal determination from DEQ is desired, the person requesting this determination may be responsible for paying for DEQ staff time necessary to research and prepare the formal determination. DEQ will use its information gathering authority, as appropriate, to verify the presence of the conditions under which this policy would be applied. Accordingly, failure by an impacted property owner or operator to provide access to the impacted property, or responses to DEQ's information requests, may be grounds for DEQ to decline to apply this policy to an impacted property. Nothing in this policy is intended to limit the ability of DEQ to access an impacted property or undertake necessary investigation or remediation activities.

Disclaimer

This policy statement is intended solely as guidance for employees of the Department of Environmental Quality. It does not constitute rulemaking by the Environmental Quality Commission and may not be relied upon to create a right or a benefit, substantive or procedural, enforceable at law or in equity, by any person. DEQ may take action at variance with this policy statement.

APPROVED BY: <Mary Wahl>
Mary Wahl, Administrator
Waste Management & Cleanup Division

DATE: 12/12/97

Klamath County, Oregon Assessor's Data

Property
Information

Property Information Tax Summary Assessment History Improvement Information New Search Search Results Log Off Printable Summary

Search Results for R352326

Owner Name
KILLIAN STEVE H & ROZALIA M

Owner Address
3815 BISBEE ST
KLAMATH FALLS, OR 97603

Alternate Account Number

Property ID Number
R352326

Situs Address
25750 RAILROAD AVE
BEATTY, OR 97621

Neighborhood
6K80 - OUTSIDE BLY - SPRAGUE RIVER AREAS

Map Tax Lot	Previous	Next	Levy Code Area	Tax Rate
R-3612-00000-05000-000			008	7.8101

Property Description

Property Class
551K (FARM USE EFU IMPROVED)

Property Code

Related Accounts by Map Tax Lot

Zoning
EFU-CG

Miscellaneous Code

Linked Accounts

Mortgage Agent-Lender

Mortgage Account Number

Exemption

Expiration Date

Tax Roll Description

TWP 36 RNGE 12, BLOCK SEC 12, TRACT E2SW4, ACRES 80.00, POTENTIAL ADDITIONAL TAX LIABILITY

Year Built

Acreage
80.00

Split/Sub Account

Split/Sub Account Message

Special Account Information - Last Certified Year (2005)

2005 - (F) FARM USE
2005 - (F) FARM USE

Sales Information

#	Buyer (Name & Address)	Seller (Name & Address)	Sales Info	Deed Info
1	KILLIAN STEVE H & ROZALIA M 3815 BISBEE ST KLAMATH FALLS, OR 97603	KILLIAN STEVE H 3815 BISBEE KLAMATH FALLS, OR 97603	\$0	05/27/2003 M03-35776 01
2	KILLIAN STEVE H 3815 BISBEE KLAMATH FALLS, OR 97603	KILLIAN FRANCES 1920 ARTHUR ST #2 KLAMATH FALLS, OR 97603	\$0	05/20/2003 M03-34177 09
3	KILLIAN FRANCES 1920 ARTHUR ST #2 KLAMATH FALLS, OR 97603	KILLIAN WALTER C & FRANCES P O BOX 35 BEATTY, OR 97621	04/26/1993 \$0	04/26/1993 M93-15022 11
4	KILLIAN WALTER C & FRANCES P O BOX 35 BEATTY, OR 97621	Missing Owner Information	\$0	295-347

2006 Land Information (Checked and Estimated)

ID	Type	Acres	Sq Ft	Market Value
L1	HMS - HOMESITE	1.00		\$5,000
L2	80U551 - 80U551 [FARM USE]	79		\$70,230
L3	ONS - ONSITE LAND [FARM USE]			\$10,500
TOTAL				\$85,730

INFORMATION SUBJECT TO DISCLAIMERS

If you have questions, comments, or suggestions regarding this site, please send e-mail to the Assessor.

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