

California Regional Water Quality Control Board
North Coast Region

CLEANUP AND ABATEMENT ORDER No. R1-2008-0044
(Rescinding and Replacing Order No. R1-2008-0036)

For

Renner Petroleum

Spill on Highway 199 at Mile Post 11.38

Del Norte County

The California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board), finds that:

1. On February 22, 2008 at around 1430 hours, a fuel truck owned and operated by Renner Petroleum, went off Highway 199 and rolled over into an inboard ditch, resulting in a discharge of an estimated 4000 gallons of red diesel fuel, upslope from the Smith River. The spill location is near the town of Gasquet, California, at approximately milepost 11.38 along Highway 199 (hereinafter referred to as the "site").
2. Renner Petroleum is the owner of the fuel truck involved in the discharge. Renner Petroleum is hereinafter referred to as the Discharger.
3. The red diesel soaked into the ground along the Caltrans right-of-way for Highway 199. Culverts along the highway were reportedly blocked to prevent the direct discharge of fuel into the Smith River, located approximately 100 feet from the area of the spill.
4. On February 22, 2008, the Regional Water Board Executive Officer issued Cleanup and Abatement Order No. R1-2008-0023 requiring specific tasks to be undertaken in the investigation. On March 7, 2008, the Executive Officer issued Cleanup and Abatement Order No. R1-2008-0036. These revised orders reflected the progress of the investigation and requires additional tasks be undertaken in the investigation.
5. Initial cleanup efforts have begun with NRC Environmental Services, Inc., an emergency spill response contractor, conducting soil excavation and sampling activities in the area of the spill.
 - a) In addition Winzler and Kelly, an engineering consulting firm has assembled and began operating of a contaminated groundwater treatment facility.
6. The existing and potential beneficial uses of the Smith River Hydrologic Unit, include:
 - a) Municipal And Domestic Supply
 - b) Agricultural Supply
 - c) Industrial Service Supply
 - d) Freshwater Replenishment

- e) Navigation
 - f) Water Contact Recreation
 - g) Non-Contact Water Recreation
 - h) Commercial And Sport Fishing
 - i) Cold Freshwater Habitat
 - j) Wildlife Habitat
 - k) Rare, Threatened, And Endangered Species
 - l) Marine Habitat
 - m) Migration Of Aquatic Organisms
 - n) Spawning, Reproduction, And/Or Early Development Of Fish
 - o) Estuarine Habitat
 - p) Aquaculture
 - q) Native American Culture
7. The Discharger has caused or permitted, causes or permits, or threatens to cause or permit waste to be discharged where it is, or probably will be, discharged into waters of the State and creates, or threatens to create, a condition of pollution or nuisance. The discharge and threatened discharge of contaminants has unreasonably affected water quality in that the discharge or threatened discharge is deleterious to the above described beneficial uses of State waters, and has impaired water quality to a degree which creates a threat to public health and public resources and therefore, constitutes a condition of pollution or nuisance. These conditions threaten to continue unless the discharge or threatened discharge is permanently cleaned up and abated.
8. The California Water Code, and regulations and policies developed thereunder, require cleanup and abatement of discharges, and threatened discharges of waste to the extent feasible. Cleanup to background levels is the presumptive standard. Alternative cleanup levels greater than background concentrations shall be permitted only if the Discharger demonstrate that: it is not feasible to attain background levels; the alternative cleanup levels are consistent with the maximum benefit to the people of the State; alternative cleanup levels will not unreasonably affect present and anticipated beneficial uses of such water; and they will not result in water quality less than prescribed in the Basin Plan and Policies adopted by the State and Regional Water Board. Any proposed alternative that will not achieve cleanup to background levels, must be supported with evidence that it is technologically or economically infeasible to achieve background levels, and that the pollutant will not pose a substantial present or potential hazard to human health or the environment for the duration of the exceedance of background levels (SWRCB Res. Nos. 68-16 and 92-49; California Code of Regulations, title 23, section 2550.4, subds. (c), and (d)).
9. Water quality objectives in the Basin Plan are adopted to ensure protection of the beneficial uses of water. The most stringent water quality objectives for protection of all beneficial uses are selected as the protective water quality criteria. Alternative cleanup and abatement actions must evaluate the feasibility of, at a minimum: (1) cleanup to background levels, (2) cleanup to levels attainable through application of best practicable technology, and (3) cleanup to protective water quality criteria levels. Attachment A, attached to and made a part of this

Order, sets out the water quality objectives for waters of the State impacted by discharges from the Site.

10. Discharge prohibitions contained in the Basin Plan apply to this discharge including, but not limited to, prohibitions on discharges to the Smith River and its tributaries. State Water Resources Control Board Resolution 68-16 (Non-Degradation Policy) applies to this discharge. State Water Resources Control Board Resolution 92-49 applies to this discharge and sets out the "Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under section 13304 of the California Water Code."
11. Reasonable costs incurred by Regional Water Board staff in overseeing cleanup or abatement activities are reimbursable under Water Code section 13304(c)(1).
12. Any person affected by this action of the Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and title 23, California Code of Regulations, section 2050. The petition must be received by the State Water Board within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request. In addition to filing a petition with the State Water Board, any person affected by this Order may request the Regional Water Board to reconsider this Order. To be timely, such request must be made within 30 days of the date of this Order. Note that even if reconsideration by the Regional Water Board is sought, filing a petition with the State Water Board within the 30-day period is necessary to preserve the petitioner's legal rights. If the Discharger chooses to appeal the Order, the Discharger is advised that they must comply with the Order while the appeal is being considered. The appeals process is enclosed.
13. The issuance of this cleanup and abatement order is an enforcement action being taken for the protection of the environment and, therefore, is exempt from the provisions of CEQA in accordance with sections 15308 and 15321, title 14 of the California Code of Regulations.
14. Failure to comply with the terms of this Order may result in enforcement under the Water Code. Any person failing to provide technical reports containing information required by this Order by the required date(s) or falsifying any information in the technical reports is, pursuant to Water Code section 13268, guilty of a misdemeanor and may be subject to administrative civil liabilities of up to one thousand dollars (\$1,000.00) for each day in which the violation occurs. Any person failing to cleanup or abate threatened or actual discharges as required by this Order is, pursuant to Water Code section 13350(e), subject to administrative civil liabilities of up to five thousand dollars (\$5,000.00) per day or ten dollars (\$10) per gallon of waste discharged.

THEREFORE, IT IS HEREBY ORDERED that Cleanup and Abatement Order No. R1-2008-0036 be rescinded, and that pursuant to California Water Code sections 13267(b) and 13304, the Discharger shall cleanup and abate the discharge and threatened discharges forthwith and shall comply with the following provisions of this Order:

1. Conduct all work under the direction of a California registered civil engineer or professional geologist experienced in surface water, soil, and groundwater investigation and remediation.
2. All workplans and reports submitted to the Executive Officer of the Regional Water Board shall be signed and stamped by a licensed professional as specified in Provision 1, above.
3. The Discharger shall coordinate investigation and cleanup activities associated with surface waters, soils, and groundwater with Regional Water Board staff, Del Norte County Environmental Health staff, the California Highway Patrol, the California Department of Fish and Game, California Department of Transportation, and other regulatory agencies involved in the cleanup.
4. The Discharger shall take no action that causes or permits or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be discharged into waters of the state.
5. The Discharger shall comply with the provisions of Monitoring and Reporting Program No. R1-2008-0024 and subsequent revisions thereof.
6. The Discharger shall remove contaminated soil to the extent feasible, and contain, cleanup or remove contaminated waters to the extent feasible. At a minimum, feasible actions to remove contaminated groundwater include; removal of free product from the surface of the groundwater and pumping of contaminated groundwater from the Smith River gravel bar.
7. The Discharger shall provide for twenty-four hour security of the spill site.
8. The Discharger shall obtain an encroachment permit from the California Department of Transportation for any work in the Highway 199 right-of-way.
9. The Discharger shall obtain any required 404 permits from the United States Army Corps of Engineers.
10. By April 3, 2008, the discharger shall commence implementation of the interim remedial workplan concurred with the Executive Officer for contaminated soils from the gravel bar adjacent to the Smith River.
11. By April 3, 2008, the Discharger shall implement the interim remedial action workplan for groundwater concurred with by the Executive Officer.
12. By April 3, 2008, the Discharger shall implement the workplan(s) to characterize the horizontal and vertical extent of contamination in soils, groundwater, and surface water concurred with by the Executive Officer.
13. By April 3, 2008, the Discharger shall submit a Site Health and Safety Plan to the Executive Officer of the Regional Water Board, The California Highway Patrol, the

California Department of Transportation, and the California Department of Fish & Game by April 4, 2008.

14. The Discharger shall submit a wet weather contingency plan to remove all equipment and materials in the event of heavy rainfall and a rapid rise of the water level in the Smith River by April 9, 2008.
15. The Discharger shall submit to the Executive Officer a feasibility study/remedial action plan by June 15, 2008.
16. The Discharger shall submit all technical reports of field activities to the Executive Officer within thirty (30) days of the completion of field work.
17. The Discharger shall pay all cost recovery invoices within thirty (30) days of issuance of the invoice.
18. If, for any reason, the Discharger is unable to perform any activity or submit any documentation in compliance with the directives contained in this order or submitted pursuant to this order and approved by the Executive Officer, the Discharger may request in writing, an extension of time as specified. The extension request must be submitted five days in advance, if possible, of the due date and shall include justification for this delay including the good faith effort performed to achieve compliance with the due date. The extension request shall also include a proposed time schedule with new performance dates for the due date in question and all subsequent dates dependent on the extension. A written extension may be granted for good cause, in which case the order will be revised accordingly.
19. This Order in no way limits the authority of this Regional Water Board to institute additional enforcement actions or to require additional investigation and cleanup at the site consistent with state and federal law. This Order may be revised by the Executive Officer as additional information becomes available.

Ordered by: _____
Robert R. Klamt
Interim Executive Officer

April 2, 2008

Attachment A

Groundwater Water Quality Objectives

Constituent of Concern	Practical Quantitation Limit ug/l	Water Quality Objective 1 ug/l
Gasoline	<50	5.0 ^a
Diesel	<50	100 ^a
Benzene	<0.5	0.15 ^b
Toluene	<0.5	42 ^c
Xylene	<0.5	17 ^c
Ethylbenzene	<0.5	29 ^c
Methyl-tertiary butyl ether (MTBE)	<0.5	5.0 ^d
Motor Oil	<175	None Available

¹ Practical quantitation limits are based on current technology. For instances where technology cannot achieve the water quality objective the practical quantitation limit will be used

^a. Published literature provides a taste and odor threshold which is applied to the narrative TASTE and ODOR water quality objective of the Basin Plan.

^b. California Public Health Goal or PHG

^c. US EPA Secondary MCLs provide a taste and odor threshold which is applied to the narrative TASTE and ODOR water quality objective of the Basin Plan.

^d. California Department of Health Services Secondary MCL (taste & odor or welfare-based)