

California Regional Water Quality Control Board
North Coast Region

CLEANUP AND ABATEMENT ORDER No. R1-2008-0120

and

ORDER REQUIRING TECHNICAL AND/OR MONITORING REPORTS FOR THE
INVESTIGATION OF POLLUTION

for

Douglas P. Carter

Parcel APN 180-110-11

and

Parcel APN 169-120-26

Ukiah

Mendocino County

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

1. On October 19, 2008, a Ukiah Police Department patrol officer apprehended Douglas P. Carter while he was preparing to dump waste materials from a trailer-mounted tank onto the bank of a flood control channel that flows to an unnamed creek that is a tributary of the Russian River. The Ukiah Police officer also observed two piles of apparent waste material that had previously been deposited on the bank of the flood control channel. The Ukiah Police officer impounded the tank and trailer and cited Mr. Carter for violations of three applicable statutes.
2. Mr. Carter told the police officer that the sources of the waste material in the tank were sediment traps at the Pete's Power Wash car washing facility, located at 1404 South State Street in Ukiah, California. Mr. Carter stated that he is the owner of Pete's Power Wash. Mr. Carter also stated that he had deposited the two previously dumped piles of waste sediment. Mr. Douglas P. Carter is hereinafter referred to as the "Discharger".
3. The unpermitted waste disposal site is located on a vacant lot at 1825 Airport Road in Ukiah, California. The parcel is identified in the Mendocino County Tax Assessor's records as APN 18011011(hereinafter "Site 1"). Mendocino County

Tax Assessor's records list the property owner for Site 1 as the Ukiah Redevelopment Agency.

4. The Discharger stated to the Ukiah Police officer that he had dumped similar waste materials for years on another property, located at 151 Lake Mendocino Drive, in Ukiah. The parcel located at 151 Mendocino Drive in Ukiah is identified in Mendocino County Assessor's records as APN 16912026 (hereinafter "Site 2"). Mendocino Tax Assessor's records list the property owner for Site 2 as Red Carpet Storage. A Fictitious Business Name Statement filed with the Mendocino County Clerk on January 15, 2004 states that Douglas Pete Carter and Thomas P. Hill are doing business as "Pete's Red Carpet Mini-Storage," at 151 Lake Mendocino Drive, Ukiah, CA 95482.
5. On October 24, 2008, Regional Water Board staff inspected the piles of deposited waste material at Site 1, and the contents of the impounded trailer-mounted tank. Staff observed that the tank contained saturated sediment beneath several inches of water. Staff collected sediment and water samples from the tank and sediment samples from the piles of deposited waste material for laboratory analysis.
6. Laboratory analysis of the waste sediment samples showed the presence of dichloromethane at 1,820 milligrams per kilogram (mg/kg), diesel range petroleum hydrocarbons at 2,940 mg/kg, and motor oil range petroleum hydrocarbons at 5,470 mg/kg. Analysis of the water samples showed the presence of diesel range petroleum hydrocarbons at 14,700 micrograms per liter ($\mu\text{g/l}$) and motor oil range petroleum hydrocarbons at 19,100 $\mu\text{g/l}$. The laboratory results also showed the presence of other contaminants in the water samples that exceed water quality objectives for protection of the beneficial uses of groundwater. A table of Water Quality Objectives for groundwater is presented as Exhibit A and is incorporated in this Order.
7. On October 29, 2008, at the request of Mendocino County Environmental Health Department (MCEHD), the Discharger conducted initial remedial efforts at Site 1 by moving the deposited waste materials away from the bank of the flood control channel and covering the waste to protect it from mobilization by rainfall and runoff. A subsequent site inspection by MCEHD staff, conducted on November 10, 2008, indicates that the waste materials have not been adequately protected from mobilization by rain and runoff, and that the waste poses a continuing threat to the beneficial uses of groundwater and surface water.
8. The existing and potential beneficial uses of the Russian River 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
9. The existing and potential beneficial uses of the groundwater in the North Coast Region include:
- a) Municipal and domestic water supply
 - b) Agricultural supply
 - c) Industrial supply
 - d) Freshwater replenishment to surface waters

10. Section 13304 of the Water Code provides:

Any person who has discharged or discharges waste into the waters of this state in violation of any waste discharge requirement or other order or prohibition issued by a regional board or the state board, or who has caused or permitted, 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 the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board, clean up the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including, but not limited to, overseeing cleanup and abatement efforts.

11. 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. Pollution is defined in Water Code section 13050(l) (1) as the alteration of the quality of the waters of the state by waste to a degree which unreasonably affects the waters for beneficial uses. The discharge and threatened discharge of pollutants at Site 1 and Site 2 may unreasonably alter water quality to a degree that affects beneficial uses. The discharge at Site 1, if not remediated, would ultimately end up in the Russian River and would be deleterious to the above described beneficial uses. The discharges at Site 1 and Site 2 may also have impacted, or may impact the groundwater that underlies the sites to such an extent that it no longer meets the water quality objectives necessary to protect beneficial uses. The discharge at Site 1 may also meet the definition of nuisance set forth in Water Code section 13050(m) if there are sensitive receptors identified in the survey that have been affected by the discharge.
12. The California Water Code, and regulations and policies developed thereunder, require cleanup and abatement of discharges. Cleanup to background levels is the presumptive standard. Alternative cleanup levels greater than background concentrations shall be permitted only if the Discharger demonstrates 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 exceedence of background levels (State Water Resources Control Board (SWRCB) Res. Nos. 68-16 and 92-49; California Code of Regulations, title 23, section 2550.4, subds. (c) and (d).

13. CWC section 13267 also authorizes the Regional Water Board to investigate the quality of any waters of the State within its region and require persons to furnish technical or monitoring reports where the burden, including costs, of these reports bears a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. This Order contains a requirement for the submittal of technical reports describing cleanup and investigative actions initiated and proposed to reduce the discharge of pollutants from the Site. All of the technical reports required by this Order are necessary to ensure that the prior harm and future threat to water quality created by the discharge of waste described above are properly abated and controlled. In light of the Discharger's unauthorized discharge of waste and regulatory agencies' observations that current conditions at the Site, as described in Findings 4 through 7, pose a continuing threat of discharge, the burden, including costs, of the reports required by this Order bear a reasonable relationship to the need for the reports and the benefits to be obtained therefrom.
14. Reasonable costs incurred by Regional Water Board staff in overseeing cleanup or abatement activities are reimbursable under Water Code section 13304(c) (1).
15. 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 to comply with the Order while the appeal is being considered. The appeals process is enclosed with this Order.
16. 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.

17. 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, 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, including the submittal of technical and monitoring reports identified below:

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. All work plans and technical reports submitted to the Regional Water Board shall be signed and stamped by a licensed professional.
2. At Site 1, coordinate investigation and cleanup activities of the surface waters, soils, and groundwater with Regional Water Board staff, Mendocino County Environmental Health staff, the California Department of Fish and Game, and other regulatory agencies involved in the cleanup.
3. Promptly remove and properly dispose of the deposited waste materials at Site 1. The initial report of cleanup activities shall include copies of manifests for transport of the waste material by a licensed hauler and receipts from a permitted facility for disposal of the wastes, and shall be submitted to the Executive Officer by December 15, 2008.
4. Submit a work plan to define the extent of residual contamination in soil and groundwater at Site 1 by December 15, 2008 for concurrence by the Executive Officer. The work plan shall include a reasonable schedule for implementation.
5. Within sixty days of completing the work set out in the work plan to define the extent of residual contamination at Site 1, submit a report of investigative findings. The report of investigative findings must include recommendations to cleanup the residual contamination in soil and groundwater, and a reasonable schedule for implementing the recommended cleanup activities.
6. Conduct a sensitive receptor survey within 1500 feet of the known extent of the discharge for Site 1. The sensitive receptor survey must include, at a minimum, locations of water supply wells, preferential pathways, sensitive environmental

habitats, and the identification of any potential health and safety issues. The sensitive receptor report shall be submitted to the Executive Officer by January 15, 2009.

7. Submit a work plan to characterize and define the extent of waste discharges and the associated impacts to soil and groundwater at the Site 2. The work plan shall be submitted by January 15, 2009 for concurrence by the Executive Officer, and shall include a reasonable schedule for implementation.
8. Within sixty days of completing the work set out in the work plan to characterize and define the extent of discharges and associated soil and groundwater impacts at Site 2, submit a report of investigative findings. The report of investigative findings must include recommendations to cleanup and/or remove the contaminated soil and groundwater, and include a reasonable schedule for implementing the recommended cleanup activities.

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 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.

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: _____
Catherine Kuhlman
Executive Officer

November 14, 2008