

California Regional Water Quality Control Board
North Coast Region

ORDER NO. R1-2010-0046

REQUIRING TECHNICAL INFORMATION
PURSUANT TO WATER CODE SECTION 13267(b)

FOR

Noyo Harbor District
And
Walter Stornetta Ranch

Noyo Harbor Dredge Spoils

Mendocino County

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

1. Noyo Harbor District stockpiles dredge material (spoils) from the Noyo River and Harbor Channels at an "upland receptacle" adjacent to the Harbor.
2. Historically, Noyo Harbor spoils were used for daily cover at the Caspar solid waste disposal site, until the facility closed in the 1990s. In the past 2-3 years, the Harbor District has requested that the Regional Water Board review proposals for upland disposal areas for the dredge spoils, including a proposal to dispose of the dredge spoils at an old quarry located on Campbell Timber lands (Melvin Pyorre's Camp 5 Mine Pit) and another to dispose of them at the Harwood Branscomb woodwaste disposal site.
3. Based on those requests, Regional Water Board staff have repeatedly advised the Harbor District and/or its consultants that the dredge spoils must be properly characterized and shown to be appropriate for disposal in the prospective disposal areas. Furthermore, depending on the characteristics of the waste and the features of the proposed disposal site, staff have advised the Harbor District and/or its consultants that disposal of the dredge spoils may be subject to conditions or permitting requirements to ensure that the dredge spoils do not adversely impact receiving waters.
4. Test Information:
Information provided by the Harbor District in early 2009, based on 30 grab samples of dredge spoils collected May 22 and 23, 2008, from the upland receptacle, combined into 5 composites (Noyo Harbor District Soil Evaluation, Weston Solutions, Inc., June 2008), showed concentrations of arsenic in excess of the California Human Health Screening Levels (CHHSLs, used to screen soils for residential or industrial land uses). In addition, the samples contained a number of polynuclear aromatic hydrocarbons (PAHs), and

concentrations of a number of metals above the soluble threshold level concentration (STLC). One of the five composite samples contained PCBs.

The Harbor District's consultant, Weston Solutions, Inc., submitted a report in October 2009 providing test results of samples collected in June 2009 from material located within the Noyo River and Harbor channel, this time reporting on four samples composited into a single sample, and again showing that a number of metals concentrations exceeded the STLC. The sample also contained a number of PAHs. Neither of the reports includes information about dioxin; Weston Solutions, Inc. advised staff by email that dioxin had not been included "because there is no current or historical source, probable or otherwise, within the Noyo River watershed" and, further, "According to historical records, a sawmill located three miles upstream (1852-1854) and at the mouth of the river (1858-1886) that produced rough cut lumber, a process that did not employ chlorine, the constituent necessary in the lumber processing industry for the creation of the by-product Dioxin."

5. On April 27, 2009, Regional Water Board staff approved a proposal to use dredge spoils from the entrance of the Noyo Harbor to reclaim Melvin Pyorre's old quarry site, known as the Camp 5 Mine Pit. The approved project would have involved placement of 47,000 cubic yards of spoil material on wide benches in a 3:1 slope and blending the spoil material with onsite soils as necessary to provide an optimal mix for growing native coastal vegetation. Runoff from the reclaimed quarry area would be captured in three downstream sediment basins.

As support for its approval of the disposal of the dredge spoils at this site and in this manner, the Regional Water Board staff noted that analyses by Weston Solutions of composite samples taken from the Noyo Harbor District upland disposal site for contaminants historically measured in Noyo Harbor sediments, revealed that contaminant levels were very low. (Noyo Harbor District Soil Evaluation, Weston 2008). Following issuance of the April 27th approval letter, Regional Water Board staff were advised that the landowner, Campbell Timber Company, had decided against using dredge spoils for reclaiming the quarry because the property might be developed for residential use in the future, and some of the contaminants in the dredge spoils exceeded residential CHSL levels.

6. On September 8, 2009, Regional Water Board staff met with representatives of the Harbor District, its consultant (Recovery Operation Specialty Services or "ROSS"), the Mendocino County Planning and Building Department, the Mendocino County Solid Waste LEA, and representatives of Harwood Branscomb, to discuss using and/or disposing of the spoils at the Harwood Branscomb woodwaste disposal site. Regional Water Board staff advised the Harbor District and Harwood representatives that the material must be characterized, shown to be suitable for use/disposal at the site and able to be

used/disposed of at the site in a manner that would not create or exacerbate adverse impacts to water quality. Regional Water Board staff also indicated that the Harwood woodwaste disposal site was subject to requirements under Waste Discharge Requirements (WDRs) and a Cleanup and Abatement Order, that the Harwood representatives would need to provide information about the woodwaste disposal site, as required by those Orders, and that use/disposal of the spoils at the woodwaste disposal site was contingent on Harwood's compliance with the Orders and a revision of the existing WDRs to allow the spoils to be used/disposed of at the site.

7. On March 22, 2010, Regional Water Board staff met with representatives of Harwood and its consultant, SHN, to discuss again using and/or disposing of the spoils at the Harwood woodwaste disposal site. Regional Water Board staff again indicated that the material must be properly characterized and shown to be appropriate for proposed use/disposal at the site, that it be used/disposed of in a manner protective of water quality, and that its use/disposal at the site is contingent on Harwood's compliance with outstanding requirements of the WDRs and CAO, and a revision of the permit for the site.
8. On March 23, 2010, Regional Water Board staff attended the Mendocino Environmental Crimes Task Force meeting, and learned from representatives of Mendocino County that spoil material from Noyo Harbor was being trucked away. Following the Task Force meeting, Mendocino County staff investigated further and reported that a convoy of trucks was proceeding from the staging area at the Harbor to the Stornetta Ranch at 45100 Biaggi Road. The Mendocino County staff representative indicated that she had counted 37 trucks, mostly tandem. She also reported that Harbor District staff advised her that they give away the dredge spoils for free to anyone who asks for it.
9. Regional Water Board staff have contacted representatives of both the Stornetta Ranch and the Harbor District and have received confirmation from both that dredge spoils from the Harbor were transported to the Stornetta Ranch. Regional Water Board staff understand that the spoils will remain where they have been placed at the Stornetta Ranch pending further investigation.
10. At this time, Regional Water Board staff do not know how much dredge spoil material is involved, the composition/characteristics of the material, nor the proposed method(s) of use and/or location(s) of disposal of the dredge spoils at the Stornetta Ranch site. However, as noted above dredge spoils from the Noyo River and Harbor Channels have been historically recognized to be, and should be handled as a contaminated, rather than an inert material. Past analyses of samples from the stockpile at the upland receptacle and from the Harbor Channels have shown levels of metals and other contaminants that may pose a threat to water quality and/or human health and the environment, depending on the method and location of use/disposal.

11. The following sections of the Porter-Cologne Water Quality Control Act authorize the Regional Water Board Executive Officer to make the following requirements for persons suspected of discharging waste that could affect the quality of waters within this region:
- Section 13260 (a) – *“All of the following persons shall file with the appropriate regional board a report of the discharge, containing the information which may be required by the regional board: (1) Any person discharging waste, or proposing to discharge waste, within any region that could affect the quality of the waters of the state, other than into a community sewer system.”*
 - Section 13267(a) - *“A regional board, in establishing or reviewing any water quality control plan or waste discharge requirements, or in connection with any action relating to any plan or requirement or authorized by this division, may investigate the quality of any waters of the state within its region.”*
 - Section 13267(b) - *“In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or proposes to discharge waste within its region...that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires.”* The burden, including costs, of the reports must bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports.
 - Section 13267(c) - *“In conducting an investigation pursuant to subdivision (a), the regional board may inspect the facilities of any person to ascertain whether the purposes of this division are being met and waste discharge requirements are being complied with. The inspection shall be made with the consent of the owner or possessor of the facilities or, if the consent is withheld, with a warrant duly issued pursuant to the procedure set forth in Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure. However, in the event of an emergency affecting the public health or safety, an inspection may be performed without consent or the issuance of a warrant.”*
12. All of the technical reports required by this Order are necessary to address the potential water quality threat posed by the improper use and disposal of dredge spoils.
13. This unpermitted placement of uncharacterized, but potentially contaminated waste material, in an uncharacterized location may be impacting or threatening to impact receiving waters, both surface and ground, as well as posing a threat to public health and the environment. 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. This enforcement action is being taken for the protection of the environment and, therefore, is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, section 21000 et seq.) in accordance with Section 15321, Chapter 3, title 14, California Code of Regulations.
15. Failure to comply with the terms of this Order may result in enforcement under the California 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.
16. Any person affected by this action of the Regional Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with California 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 Board, any person affected by this Order may request the Regional Water Board to reconsider this Order. To be timely, any 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 you choose to request reconsideration of this Order or file a petition with the State Water Board, be advised that you must comply with the Order while your request for reconsideration and/or petition is being considered.

THEREFORE, IT IS HEREBY ORDERED that, pursuant to California Water Code Section 13267(b) the Discharger shall:

1. By May 11, 2010, submit a technical report to the Regional Water Board providing the following information:
 - a. Quantity of Noyo River and Harbor Channels dredge spoils transported to Stornetta Ranch.
 - b. Information about other dredge spoil disposal since September 1, 2006, the date of the most recent Regional Water Board Clean Water Act section 401 Water Quality Certification for dredging of the entrance of the Noyo River. Please include locations, quantity, dates of disposal, and any available analytical data applicable to the spoils taken by each entity.

- c. Workplan for characterizing the dredge spoils from the Noyo River and Harbor Channels at the Stornetta Ranch. Number of samples tested should be of sufficient quantity to provide information representative of all material located at the site. Constituents to be tested for should include total and soluble metals, PAHs, oil and grease, Aroclor PCBs, Pesticides, Organotins, and 2,3,7,8 TCDD (dioxin).
2. By June 10, 2010, submit a report presenting the characterization of the dredge spoils developed from the implementation of the workplan. The report shall also provide recommendations as to appropriate next steps, that is, whether the spoils should be returned to the Noyo Harbor site, removed for disposal at a properly permitted solid waste disposal site, and/or whether the materials are suitable for use/disposal at the Stornetta site. If the latter option considered, the report shall also present recommendations as to how the material should be stored, handled, etc. at the Stornetta site to ensure appropriate protection of water quality. If the report recommends that the material be removed, it shall also include a schedule for removal of the material.
3. Both reports shall be prepared, signed, and stamped by a California licensed professional engineer with experience in site investigation and cleanups, and waste characterization.

All information provided in response to this Order must include the following signed certification statement:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Ordered by _____

Catherine Kuhlman
Executive Officer

April 21, 2010