

California Regional Water Quality Control Board
North Coast Region

CLEANUP AND ABATEMENT ORDER NO. R1-2013-0022

FOR

NORTH COAST RAILROAD AUTHORITY AND
UNION PACIFIC RAILROAD COMPANY

WILLITS RAIL YARD
239 East Commercial Street
Willits, California

MENDOCINO COUNTY

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

1. Beginning in the early 1900's, the Southern Pacific Transportation Company (Southern Pacific), also known as the Northwestern Pacific Railroad Company, owned property located at 239 East Commercial Street in Willits (Site).
2. Union Pacific Railroad Company (UP) is the successor in interest to Southern Pacific (SP).
3. UP owned the Site from the early 1900's to 1992, when the rail yard was sold to the North Coast Railroad Authority (NCRA). The rail yard was also used by Eureka Southern Railroad prior to the NCRA's use. UP and NCRA are hereinafter referred to as the "Dischargers".
4. The Site consists of tracks for storage and switching of locomotives and cars, a wye for turning around engines and cars, an office building, and a locomotive operation and maintenance area (LOMA). Mill Creek flows through the property, and an unnamed tributary to Outlet Creek and the Eel River is located to the north of the LOMA (Figure 1). The Site has been used to park, fuel and maintain locomotives and boxcars since the early 1900's.
5. Historic uses of the yard include a roundhouse for maintenance, turntable, machine shop, car body shop, mow shed, oil columns, above ground fuel storage (42 foot diameter fuel tanks), box car maintenance and machine shop, oil pump house, oil houses, sand delivery system, and other features.
6. Records show that there have been discharges of petroleum hydrocarbons from leaky engines parked on the tracks and discharges of petroleum hydrocarbons and/or

waste products at the LOMA area. Records also show that there have been spills from above ground fueling facilities and from vandalism.

7. In 1992, Southern Pacific conducted a soil and groundwater investigation at the fueling area and the main parking area for locomotives. The investigation revealed high levels of petroleum hydrocarbons in soil and groundwater in those areas. Total Petroleum Hydrocarbons (TPH) such as diesel, motor oil and oil and grease were detected at concentrations of 5,500 mg/kg, 1,500 mg/kg, and 6,000 mg/kg, respectively. In several borings, free petroleum product was detected.
8. Storm water runoff from the track areas near the fueling and locomotive parking area flows to a drop inlet that discharges to Mill Creek. The 1992 investigation evaluated the storm water pathway as a conduit of contaminant transport to Mill Creek. Sampling of surface soils in the drainageway flowing to Mill Creek from the drop inlet detected TPH as motor oil at concentrations of 200 mg/kg and 300 mg/kg.
9. In 1995, additional groundwater monitoring wells were installed at the Site. Free petroleum product was detected in monitoring well MW-4, located in the locomotive parking area.
10. In 1996 and 1997, the California Department of Fish and Game investigated complaints of sediment discharges and hazardous materials on the rail line north of the Site and discharges of hazardous materials at the Site. The investigation of the Site revealed the practice of illegal disposal of hazardous waste, the discharge of waste to Mill Creek from spills from the fueling operations, and direct discharge of waste and hazardous waste from the LOMA directly to a drop inlet that discharges to an unnamed tributary to Outlet Creek. The Department of Toxic Substances Control and Regional Water Board staff assisted the Department of Fish and Game in the criminal investigation against the NCRA.
11. In 1997 and 1998, approximately 180 tons of contaminated soils were removed from the fueling area and locomotive parking area by Southern Pacific Transportation Company. The contaminated soils and ballast materials were excavated adjacent to the tracks in the locomotive parking area, around the above ground fuel storage tank, and in the drainage way that carries storm water from these areas to Mill Creek.
12. On April 27, 1997, the Regional Water Board Executive Officer issued Cleanup and Abatement Order No. 97-47 to SP and NCRA requiring proper storage and disposal of waste oil, a spill prevention and countermeasure control plan for the fueling area, a storm water pollution prevention plan (including the implementation of best management practices), cleanup of the concrete sump in the LOMA area, and defining the extent of soil and groundwater contamination.

13. SP and NCRA did not comply with Cleanup and Abatement Order No. 97-47. The Regional Water Board referred noncompliance with Cleanup and Abatement Order No. 97-47 and Cleanup and Abatement Order No. 97-129 (related to sediment discharges) to the State Attorney General's Office. The Attorney General's Office filed a complaint against NCRA on behalf of the Regional Water Board, the Department of Fish and Game and the Department of Toxic Substances Control against NCRA which resulted in a Consent Decree and Stipulated Judgment (CD).
14. On May 13, 2011, the NCRA submitted an Environmental Site Assessment (ESA) of the former Willits Railroad Maintenance and Fueling Yard as required by the CD. The purpose of the ESA is to document historic uses over time so that a comprehensive workplan can be prepared to investigate soil and groundwater contamination. A draft Site Characterization Plan was received by the Regional Water Board on June 15, 2011. However, the Site Characterization Plan was never finalized.
15. The purpose of this order is to revise Cleanup and Abatement Order No. 97-47 to add UP and to update the requirements of the investigation and cleanup. The Regional Water Board has independent authority under Water Code Section 13304 and 13267(b) to order revisions of previous cleanup and abatement orders. NCRA's obligations under the CD are independent of its obligations set forth in Cleanup and Abatement Order 97-47, and, therefore, replacement of Cleanup and Abatement Order No. 97-47 with Cleanup and Abatement Order No. R1-2013-0022 does not affect NCRA's obligations to comply with the CD. NCRA is required to follow both Cleanup and Abatement Order No. R1-2013-0022 and the CD.
16. The Water Quality Control Plan for the North Coast Region (Basin Plan) designates beneficial uses of the waters of the State, establishes water quality objectives to protect those uses, and establishes implementation policies to attain water quality objectives. The beneficial uses of areal groundwater include domestic, agricultural, and industrial supply.
17. The existing and potential beneficial uses of the Eel River and its tributaries include:
 - a. Municipal and domestic supply
 - b. Agricultural supply
 - c. Municipal industrial service supply
 - d. Industrial process supply
 - e. Groundwater recharge
 - f. Freshwater replenishment
 - g. Navigation
 - h. Hydropower Generation
 - i. Water contact recreation
 - j. Non-contact water recreation
 - k. Commercial and sport fishing

- l. Warm freshwater habitat
 - m. Cold freshwater habitat
 - n. Wildlife habitat
 - o. Rare, threatened, and endangered species
 - p. Migration of aquatic organisms
 - q. Spawning, reproduction, and/or early development of fish
 - r. Aquaculture
18. The Basin Plan includes numeric water quality objectives for chemical constituents in groundwater and surface waters, which incorporate the state drinking water maximum contaminant levels. The Basin Plan also includes narrative water quality objectives for toxicity for surface waters and a narrative taste and odor water quality objective for surface waters and groundwater. The groundwater taste and odor objective states that: "Groundwater shall not contain taste or odor producing substances at concentrations which cause nuisance or adversely affect beneficial uses."
19. The State Water Resources Control Board (State Water Board) has adopted Resolution No. 92-49, "Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under Water Code Section 13304", setting forth the policies and procedures to be used during an investigation or cleanup of a polluted Site and requires that cleanup levels be consistent with State Board Resolution 68-16, the "Statement of Policy with Respect to Maintaining High Quality of Waters in California". Resolution No. 92-49 requires cleanup and abatement of the effects of discharges in a manner that promotes attainment of either background water quality levels, or the best water quality which is reasonable if background levels of water quality cannot be restored, considering all demands being made and to be made on those waters and the total values involved, beneficial and detrimental, economic and social, tangible and intangible.
20. 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 that prescribed in the Basin Plan and Policies adopted by the State and Regional Water Board. In the event that the discharger demonstrates that it is not feasible to attain background levels, alternative cleanup levels have been identified in Attachment A, which are consistent with the maximum benefit to the people of the State because they protect the water for its beneficial uses, including domestic water supply, and protect human health and the environment; will not unreasonably affect present and anticipated beneficial uses of such water; and will not result in water quality less than that prescribed in the Basin Plan and Policies adopted by the State and Regional Water Board.

21. Section 13267(b) of the Water Code provides that “in conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region ... shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including the costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring these reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.”
22. The findings in this Order provide the evidence to require the Discharger to provide the technical reports required by this Order. The technical reports required by this Order are necessary to assure cleanup of the Site in compliance with Section 13304 of the Water Code. The burden of providing the required technical reports bears a reasonable relationship to the need for the report and the benefits to be obtained from the reports.
23. Based on the certainty that there is no possibility that the initial investigatory activities required by this order will have a significant effect on the environment, the issuance of this cleanup and abatement order is exempt from having to comply with the requirements of the California Environmental Quality Act (CEQA). (14 Cal. Code Regs 15061(b)(3).) This Order requires that the responsible parties identified herein undertake investigations of the Site to characterize the horizontal and vertical groundwater and soil contamination at the Site. Because the investigation will not be occurring in an area that contains sensitive plant or animal species and will only involve vehicular and pedestrian traffic, and installation of soil borings and monitoring wells, it can be seen with certainty that there is no possibility that such investigatory activities will have a significant adverse effect on the environment. All investigatory work will be conducted at locations with established heavy industrial activity and therefore the investigation will have no greater impact than historical use of the immediate and surrounding area.
24. It is impossible at this time for the Regional Water Board to be able to identify potentially significant adverse environmental effects of actual clean up of the Site. Because the Regional Water Board is unable, pursuant to Water Code section 13360, to direct the manner and method of compliance, the Regional Water Board will not have any plan for actual clean up of the Site until the responsible parties have identified in a draft remedial action plan the proposed method of cleaning up the Site. Once the discharger has submitted a remedial action plan, the Regional Water Board will ensure that prior to granting concurrence with the final remedial action plan, it has complied with the requirements of CEQA. Until the Site has been investigated and

a remedial action plan has been proposed, it is impossible for the Regional Water Board to identify and mitigate potentially significant adverse impacts associated with the cleanup of the Site.

25. Because of the need to initiate investigation of the contamination of the Site before the Regional Water Board is able to identify how the Site will be cleaned up and any potentially significant impacts that could result to the environment from the cleanup, this Order only requires the immediate investigation of the Site, and defers actual cleanup until the Regional Water Board has concurred with a final remedial action plan and has complied with the requirements of CEQA.
26. Reasonable costs incurred by Regional Water Board staff in overseeing cleanup or abatement activities are reimbursable under Water Code section 13304(c) (1).
27. Any person affected by this action of the Regional Water 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.
28. This Order in no way limits the authority of the Regional Water Board to institute additional enforcement actions or to require additional investigation and cleanup at the facility consistent with the Water Code. This Order may be revised by the Regional Water Board Executive Officer as additional information becomes available.
29. 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, except for the purposes of enforcement of past violations, Cleanup and Abatement Order No. 97-47 is hereby revised, amended, and reissued as Cleanup and Abatement Order No. R1-2013-0022, and pursuant to Water Code sections 13267(b) and 13304, the Dischargers shall cleanup and abate the discharges 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. Submit a *Site Characterization Plan* (SCP) to the Executive Officer for review and concurrence outlining the steps proposed to investigate all contamination source areas identified in the ESA discussed in No. 14 above. The SCP shall develop an initial conceptual site model (CSM) on possible sources, expected chemical impacts, potential migration pathways and potential receptors, contain sufficient sampling locations for the characterization of contamination at all source areas, a proposal for the collection of soil and groundwater samples, and present a dynamic approach (Triad approach) to the field sampling activities to confirm and expand the initial CSM. The objective of the Triad approach is to present a systematic work planning and decision making strategy to allow development of a CSM that supports the evaluation of remedial options. The SCP shall define the investigations objectives, and the decision logic for expanding the investigation while in the field based on real-time information and rapid-turnaround laboratory data. In addition to the above, the SCP shall identify the means and methods of the investigation techniques to be employed in the field, a Health and Safety Plan, Analytical Plan (types of contaminants to sample and analytical methods), a Quality Assurance Project Plan, a communication plan identifying the stakeholders to be involved in the dynamic decision making process, and a schedule for implementation. The SCP report is due to the Executive Officer within 60 days of the issuance of this Order.
2. Implement the SCP within 30 days of concurrence of the plan by the Executive Officer. During the implementation of the *SCP* field work schedule, coordinate and lead routine stakeholder communication conference calls or meetings to present the investigation findings to date, interpretation of the findings and recommendations for new areas of investigation based on the findings to date. The schedule for these conference calls or meetings is to be presented in the communication plan and the schedule identified in the *SCP*.
3. Submit a *Site Characterization Report*, presenting the findings of the implementation of the *SCP* within 120 days of concurrence with the plan by the Executive Officer. The report must present the CSM identifying source areas, horizontal and vertical extent of impacts, chemicals of concern, affected media, migration pathways and a sensitive receptor survey that evaluates the area within 1,000 feet of the known extent of the discharge. The sensitive receptor survey must include identification of, at a minimum, locations of water supply wells, preferential pathways, sensitive environmental habitats, and the identification of any potential health and safety issues. The *Site Characterization Report* shall also contain recommendations to abate discharges of

contaminants to storm water and groundwater, or other actions to be implemented in the short term to limit further environmental degradation while remedial planning and implementation are underway.

4. The Dischargers shall submit a *Remedial Action Plan* (RAP) within 150 days of the determination by the Executive Officer that the vertical and horizontal extent of contamination is adequately defined. The RAP shall include, at a minimum, a Conceptual Site Model, the results of a feasibility study that identifies and evaluates at least three alternatives for restoring or protecting the beneficial uses of groundwater and surface water at the Site. The RAP shall also include a proposal to implement the most cost-effective and environmentally protective remedial action along with a time schedule for RAP implementation.
5. The Dischargers shall cleanup and abate the effects of the unauthorized discharge in conformance with the deadlines set forth in the RAP after it has undergone compliance with CEQA and public review, pursuant to Water Code section 13307.5, and after the Regional Water Board Executive Officer has concurred with its proposal.
6. The Dischargers shall submit a report of findings for the RAP within 150 days of implementation of the fieldwork.
7. The Dischargers shall submit the following information electronically to the State Water Board's GeoTracker database, within 30 days of being generated:
 - a. All chemical analytical results for soil, water and vapor samples.
 - b. The latitude and longitude of any permanent sampling point for which data is reported, accurate to within 1 meter and referenced to a minimum of two reference points from the California Spatial Reference System, if available.
 - c. The surveyed elevation relative to a geodetic datum of any permanent sampling point.
 - d. The elevation of groundwater in any permanent monitoring well relative to the surveyed elevation.
 - e. A Site map or maps showing the location of all sampling points.
 - f. The depth of the screened interval and the length of screened interval for any permanent monitoring well.
 - g. PDF copies of boring logs.
 - h. PDF copies of all reports, work plans, and other documents, including the signed transmittal letter and professional certification by a California Registered Civil Engineer or a Registered Geologist.
8. The Dischargers shall conduct all work under the direction of a California Registered Civil Engineer or Registered 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.

9. 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. The extension request must be submitted five days in advance, if possible, of the due date and shall include justification for this delay, including demonstration of 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.

Original Signed By

Ordered by: _____

Matthias St. John
Executive Officer

March 12, 2013

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