

California Regional Water Quality Control Board
North Coast Region

CLEANUP AND ABATEMENT ORDER NO. R1-2005-0057

For

GERI STANTON, TRUSTEE, PURSUANT TO THE WILL OF DENIS STANTON,
CODY KYLE DOBBS, AND
WADE ALLEN TRABUE

750 Bear Pen Road
A.P. No. 053-21-004
Piercy, California

MENDOCINO COUNTY

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

1. On May 13, 2005, Regional Water Board staff received notification of a diesel spill in Piercy, Mendocino County. The discharge of diesel fuel occurred from a generator, an above ground tank system and its associated fuel lines used to provide power for an indoor marijuana growing operation on property located at 750 Bear Pen Road in Piercy, Mendocino County, A.P. No. 053-21-004 (hereinafter "Site").
2. The property is owned by Geri Stanton, Trustee of the Estate of Denis Stanton. Ms. Stanton's mailing address is P. O. Box 2576 Grants Pass, Oregon, 97528.
3. Cody Kyle Dobbs and Wade Allen Trabue were arrested at the scene of the marijuana growing operation on Thursday, May 12, 2005 by the Mendocino County Sheriff's Department. Cody Kyle Dobbs and Wade Allen Trabue operated the above ground tank system and its associated fuel lines. The tank system was used to store diesel fuel to operate a generator for the indoor growing operation.
4. Geri Stanton, Trustee of the Estate of Dennis Stanton, Cody Kyle Dobbs and Wade Allen Trabue are hereafter referred to as the Dischargers.
5. The generator building is located off the side of a dirt road on the inside slope of the road. The road is cut into a steep hillside. At the base of the hillside is the unnamed tributary to the Eel River. During a Regional Water Board staff inspection of the property at 750 Bear Pen Road on May 13, 2005, numerous five-gallon buckets of waste oil and several above ground storage tanks used to store diesel fuel were observed. Approximately twenty-four (24) 5-gallon buckets of waste oil were noted near the generator building, and eight above ground tanks were identified. The eight above ground storage tanks were estimated in total to have approximately 7,000 gallons of storage capacity. Based on visual evidence, diesel fuel was discharged from overfilling the tank system which ran down the hillside, soaked into the ground, migrated subsurface downward to where it emerged (and continues to emerge) from the stream bank and into an unnamed tributary to the Eel River. Obvious

spills at the above ground tanks, fuel lines and generator building area were noted. Diesel fuel on the road and down the bank towards the creek was also observed.

6. The diesel spill has impacted an unnamed tributary to the Eel River from the point of entry of the spill and along the entire stretch of the creek to the mouth of the creek where it enters the Eel River.
7. Residents in the area rely on surface water for domestic supply. Two downstream residences have had their water systems impacted (the intakes are in the unnamed tributary) from the discharge of diesel fuel to the unnamed tributary. The residential water system is located on one parcel and serves two residences. The water system consists of one 22,000 gallon above ground concrete tank, and two 3,500 gallon poly tanks. The concrete water storage tank fills two additional 3,500 gallon poly tanks located at another parcel of land where the second home is located. The water system serves as drinking water supply for the two residences and is also connected to extensive irrigation systems for watering lawns and gardens.
8. Once the diesel spill was noted by Cody Kyle Dobbs and Wade Allen Trabue, the water intake for the residences was extended above the diesel spill point of entry to the creek. The residential water system had already been impacted by the spill. Diesel fuel was noted by Regional Water Board staff floating on top of the 22,000 concrete tank that serves two homes on May 13, 2005. The water sample collected from the concrete water tank detected Total Petroleum Hydrocarbons as diesel at 170,000 parts per billion.
9. The beneficial uses of shallow areal groundwater include municipal and domestic water supply, agricultural supply, and industrial process supply.
10. The site is adjacent to an unnamed tributary to the Eel River. Beneficial uses of the Eel River and its tributaries include:
 - a. municipal and domestic supply
 - b. agricultural supply
 - c. industrial service supply
 - d. groundwater recharge
 - e. navigation
 - f. hydropower generation
 - g. water contact recreation
 - h. noncontact water recreation
 - i. commercial and sport fishing
 - j. warm freshwater habitat
 - k. cold freshwater habitat
 - l. wildlife habitat
 - m. preservation of areas of special biological significance
 - n. preservation of rare and endangered species
 - o. migration of aquatic organisms
 - p. fish, spawning, reproduction, and early development

11. The Dischargers named in this Order have caused or permitted, cause or permit, or threaten 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.
12. 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 shall be permitted only if the Dischargers 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 exceedence of background levels (SWRCB Res. Nos. 68-16 and 92-49, Title 23, California Code of Regulations Section 2550.4, subds. (c), and (d)).
13. Discharge prohibitions contained in the Basin Plan apply to this Site. State Water Resources Control Board Resolution 68-16 (Non-Degradation Policy) applies to this Site. State Water Resources Control Board Resolution 92-49 applies to this Site and sets out the "Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under Section 13304 of the California Water Code."
14. Reasonable costs incurred by Regional Water Board staff in overseeing cleanup or abatement activities are reimbursable under Section 13304(c)(1) of the California Water Code.
15. The workplans and reports required by this Order are necessary to ensure that the prior harm and future threat to water quality created by the discharges described above are properly abated and controlled. More detailed information is available in the Regional Water Board's public file on this matter.
16. The Regional Water Board will ensure adequate public participation at key steps in the remedial action process, and shall ensure that concurrence with a remedy for cleanup and abatement of the discharges at the Site shall comply with the California Environmental Quality Act [Public Resources Code Section 21000 et seq. (CEQA)].

17. 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 California Water Code. This Order may be revised by the Executive Officer as additional information becomes available.
18. 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 Title 14, California Code of Regulations, Sections 15308, and 15321.
19. 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. 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 no less than five hundred dollars (\$500.00) for each day the violation occurs and up to five thousand dollars (\$5,000.00) per day for each day the violation occurs; or ten dollars (\$10) per gallon of waste discharged.
20. 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 Section 13320 of the California Water Code and Title 23, California Code of Regulations, Section 2050. The State Water Board must receive the petition 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 requests 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.

THEREFORE, IT IS HEREBY ORDERED that pursuant to California Water Code Sections 13267(b) and 13304, the Dischargers shall cleanup and abate the discharge and threatened discharge forthwith and shall comply with the following provisions of this Order:

1. All work performed under this Order shall be conducted in accordance with all local ordinances and under the direction of a California Registered Geologist or Registered Engineer experienced in pollution investigation and cleanups. All necessary permits shall be obtained.
2. The Dischargers shall, within 48 hours of the date of this Order, provide a written plan to treat and dispose of the approximate 29,000 gallons of contaminated water in the concrete and poly water supply tanks.

3. The Dischargers shall submit a plan by June 30, 2005, to cleanup and abate the effects of the diesel spill on the two residential properties water supply systems. The plan shall include an evaluation of contamination in the poly tanks, concrete tank, and a plan for replacement and/or cleaning of those systems.
4. The Dischargers shall submit within 30 days a plan to cleanup and abate the impacts of diesel fuel to the unnamed tributary to the Eel River. The plan shall include source removal and/or treatment of diesel fuel at the point of entry to the stream.
5. If, for any reason, the Dischargers are unable to perform any activity or submit any documentation in compliance with the work schedule contained in this Order or submitted pursuant to this Order and approved by the Executive Officer, the Dischargers may request in writing, an extension of time as specified. The extension request must be submitted 5 business days in advance of the due date sought to be extended and shall include justification for the 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.

Ordered by: _____

Catherine Kuhlman
Executive Officer

June 7, 2005