California Regional Water Quality Control Board
North Coast Region

Cleanup and Abatement Order No. R1-2002-0095

For

Union Pacific Railroad Company
Learner - Eureka, Inc.
G&R Metals Eureka, Inc.
George J. Rynecki
Stella S. Rynecki
Levin Metals Corporation, AKA Levin Enterprises
G&R Metals, Inc.
and
The George J. Rynecki Trust
701 First Street
Eureka, California

Humboldt County

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

1. Prior to April 10, 1905, Eureka and Klamath Railroad Company owned property located at the foot of H Street between First Street and Humboldt Bay in Eureka, California, identified as APN #01-121-17, APN #01-121-18, and APN #01-121-22, hereinafter "Site," (Attachment 1).

2. On April 10, 1905, Northwestern Pacific Railroad Company purchased the Site from the Eureka and Klamath Railroad Company.

3. Learner - Eureka, Inc., conducted scrap metal operations on various portions of the Site from about 1954 to 1958.

4. On September 17, 1958, Northwestern Pacific Railroad Company entered into an agreement with G&R Metals Eureka, Inc., relating to construction, maintenance, and operation of the rail spurs present at the foot of H Street in Eureka, California, located on a portion of the Site on APN #01-121-22.

5. G&R Metals Eureka, Inc., purchased APN #01-121-17, and APN #01-121-18 on February 25, 1959.

6. George J. Rynecki owned and operated G&R Metals Eureka, Inc., until 1978. G&R Metals Eureka, Inc., operated a scrap metal facility on the Site. Operations at the Site included metals reclamation from transformers, disassembly, incineration, and crushing of automobiles, storage of metals, batteries, radiators, and miscellaneous refuse. These operations occurred across the Site.

7. On September 29, 1978, Levin Metals Corporation leased the southern portion of the Site, APN #01-121-17 and APN #01-121-18, from George J. Rynecki and Stella Rynecki and

G&R Metals Eureka, Inc., for a period of five years commencing on October 1, 1978. The lease agreement specified the purchase and sale of ferrous and non-ferrous scrap materials, new steel and related commodities at the Site.

8. On November 13, 1978, Levin Metals Corporation entered into a third party lease agreement with the Northwestern Pacific Railroad Company. The agreement allowed continued use of the spur track located on APN #01-121-22, which connected the leased premises with the Northwestern Pacific rail system.

9. In 1978, Levin Metals Corporation acquired certain assets of G&R Metals Eureka, Inc., including inventory and equipment, customer lists, and the right to use the G&R Metals name. Levin Metals Corporation - G&R Metals Division purchased auto bodies, aluminum, copper, brass, radiators, batteries, scrap iron and steel.

10. George J. Rynecki and Stella S. Rynecki purchased APN #01-121-17 and APN #01-121-18 from G&R Metals Eureka, Inc., on January 10, 1979. Levin Metals Corporation - G&R Metals Division continued operations under the existing lease agreement with George J. Rynecki and Stella Rynecki, and G&R Metals Eureka, Inc., until some time in 1982.

11. On January 27, 1984, Landon George as President of G&R Metals, Inc., leased the southern portion of the Site (APN #01-121-17 and APN #01-121-18) from George J. Rynecki and Stella Rynecki for a period of five years commencing on February 1, 1984. Between 1984 and 1989, G&R Metals, Inc., operated metal salvage and related activities across the Site.

12. George J. Rynecki purchased APN #01-121-17 and APN #01-121-18 from George J. Rynecki and Stella S. Rynecki on September 18, 1990, and subsequently transferred ownership of the two parcels to the George J. Rynecki Trust on April 15, 1991.

13. Union Pacific Railroad Company (formerly known as Northwestern Pacific Railroad Company) is the successor in interest to Southern Pacific Transportation Company.

14. Levin Enterprises is the successor in interest to Levin Metals Corporation.

15. Appropriate management practices and controls are necessary to prevent discharges of waste from automobile and metal salvage operations. Containment measures such as a covered impermeable surface for material storage, and handling and processing areas prevent rainfall from contacting contaminants and keep discharges or spills from reaching soils and groundwater. Regional Water Board staff experience at former wrecking yards used between the 1950s and 1980s indicates that historic metal salvage operations generally did not have the containment necessary to prevent discharges. Spills often resulted from the transfer, crushing, bailing, and improper storage of automobiles, auto parts, large appliances, transformers, and other materials involved in metals salvage. Absent proper management and containment measures, discharges of waste routinely occurred in these types of operations. Discharges at the Site resulted in contamination of soil, groundwater, surface water, and Humboldt Bay sediments with petroleum hydrocarbons and other automotive wastes, metals, polychlorinated biphenyls (PCBs), and volatile organic compounds.

16. Historic aerial photos and public directories as early as 1954 indicate use of this Site for automobile and metal salvage operations. It is evident in the record that operations on the Site occurred without the benefit of improvements that would contain or prevent spills and discharges. Leakage of waste oil containing engine wear metals from automobiles, leakage of acids and metals from batteries, and leakage of waste oil containing PCBs from transformers have resulted in discharges at this Site which create a condition of pollution affecting soil, groundwater, surface water, and Humboldt Bay sediments. Automotive and debris storage, soil staining, and equipment visible in historic photos; services advertised in public directories; and Regional Water Board staff observations during Site inspections correlate with current findings of contaminants detected in soil, groundwater, and sediment samples obtained from the Site.

17. On October 17, 1988, Regional Water Board staff received analytical results of soil samples collected from APN #01-121-22. The results indicated the detection of 0.091 mg/kg xylenes, 2200 mg/kg lead, and 5000 mg/kg total petroleum hydrocarbons in soil on the parcel.

18. Soil samples collected on November 12, 1992, from APN #01-121-17 contained, among other constituents, up to 19000 mg/kg lead, 3200 mg/kg total petroleum hydrocarbons, and 10000 mg/kg zinc.

19. Learner - Eureka, Inc., G&R Metals Eureka, Inc., Levin Metals Corporation, and G&R Metals, Inc., are named as Dischargers because they conducted metal salvage operations at the Site, which resulted in the above-described discharges. During the time period that these discharges occurred, the Site or portions thereof were owned by: Northwestern Pacific Railroad Company (now Union Pacific Railroad Company); G&R Metals Eureka, Inc.; George J. Rynecki; and Stella S. Rynecki. The George J. Rynecki Trust continues to own both APN #01-121-17 and APN #01-121-18, while Union Pacific Railroad Company (the successor in interest to Northwestern Pacific Railroad Company), currently owns APN #01-121-22. Union Pacific Railroad Company; George Rynecki; and the George J. Rynecki Trust owned and controlled the Site after the discharges occurred from metal recycling operations. These discharges continue to impact or threaten water quality. Union Pacific Railroad Company, Learner - Eureka, Inc., G&R Metals Eureka, Inc., George J. Rynecki and Stella S. Rynecki, Levin Metals Corporation AKA Levin Enterprises, G&R Metals, Inc., and the George J. Rynecki Trust are hereinafter referred to as the "Dischargers."

20. In 1988, Southern Pacific Transportation Company contracted for the removal of one underground storage tank from APN #01-121-22. The underground tank had formerly contained leaded gasoline. A groundwater sample collected from the excavation for the removed tank indicated the presence of benzene and toluene, xylenes, and gasoline.

21. In 1989, Southern Pacific Transportation removed approximately 1000 cubic yards of automobile parts and metal debris from APN #01-121-22, and in 1990 conducted investigations which documented metals and total petroleum hydrocarbons as gasoline contamination in soil. Grab groundwater samples indicated detection of total petroleum hydrocarbons as gasoline and total metals.

22. Regional Water Board staff collected Site soil and Humboldt Bay sediment samples from 0 to 6 inches below ground surface in 1994. Soil analytical results indicated various contaminants including: polychlorinated biphenyls (PCBs) up to 230 mg/kg; antimony up to 394 mg/kg; arsenic up to 42.5 mg/kg; cadmium up to 66.6 mg/kg; chromium up to 457 mg/kg; copper up to 30200 mg/kg; nickel up to 441 mg/kg; zinc up to 19900 mg/kg; and lead up to 19600 mg/kg. Lead, arsenic, and copper were found in Humboldt Bay sediment samples immediately adjacent to the Site at up to 4830 mg/kg, 50.5 mg/kg, and 10200 mg/kg, respectively.

23. On APN #01-121-22, Southern Pacific Transportation Company installed six 'A' zone monitoring wells and four 'B' zone monitoring wells in 1996. Investigation activities identified two water-bearing zones (aquifers) on the bayward portion of the Site. Site groundwater flows consistently towards the bay, and tidal fluctuations influence its relative elevation. The uppermost water-bearing zone (zone 'A') is encountered in the shallow coarse-grained fill material, which contains metal and other debris. Zone 'A' water-level elevations fluctuate between about four and eight feet below the ground surface. A layer of estuarine clay separates zone 'A' from the second water-bearing zone (zone 'B'), which occurs in a sand unit. Groundwater in zone 'B' is confined. Water-level elevations in zone 'B' range from three to eight feet below ground surface. Clustered monitoring well data shows an upward vertical gradient from zone 'B' to zone 'A'.

24. Soil and groundwater characteristics were evaluated on APN # 01-121-17 and APN # 01-121-18 in 1996 for the George J. Rynecki Trust using ten soil test pits and seven temporary well points. Soil and grab groundwater analytical results indicated the presence of metals, petroleum hydrocarbons, and volatile organic compounds in shallow soil and/or 'A' zone groundwater.

25. On January 25, 1999, the Regional Water Board Executive Officer issued Cleanup and Abatement Order 99-6, requiring, among other tasks, performance of a human health and ecological risk assessment. A human health and ecological risk assessment investigation was initiated in accordance with provisions of Cleanup and Abatement Order 99-6 and a draft report was submitted for concurrence. However, interim cleanup requirements and potential redevelopment of the Site for human use will affect the potential risks previously evaluated and require revision of the current draft risk assessment report.

26. The Site is located immediately adjacent to Humboldt Bay and overlies shallow groundwater, which is approximately three to five feet below the surface. Groundwater is in continuity with the surface waters of Humboldt Bay.

    The beneficial uses of shallow areal groundwater include:

    a. domestic water supply
    b. agricultural supply
    c. industrial supply

The beneficial uses of Humboldt Bay include:

a. industrial supply
b. navigation
c. water contact recreation
d. non-contact water recreation
e. ocean commercial and sport fishing
f. saline water habitat
g. wildlife habitat
h. preservation of rare and endangered species
i. marine habitat
j. fish migration
k. fish spawning
l. shellfish harvesting

27. 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.

28. 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 activities at this Site must comply with Title 23, Chapter 15 of the California Code of Regulations (Chapter 15), which regulates the disposal of wastes to land. 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 (SWRCB Res. Nos. 68-16 and 92-49, Title 23, California Code of Regulations Section 2550.4, subds. (c), and (d)).

29. Water quality objectives exist to ensure the beneficial uses of water. Several beneficial uses of water exist, and the most stringent objective for protection of all beneficial uses is selected as protective for water quality. A listing of the water quality objectives for waters of the State impacted by discharges from the Site is included as Attachment B to this Order

30. Cleanup and abatement activities remain to be performed at the Site. These activities include: (a) further sediment investigation and evaluation; (b) soil characterization in accordance with the prescriptive standards of Chapter 15; (c) feasibility assessment and implementation of interim remedial alternatives to address Chapter 15 compliance; (d) a revised ecological and human health risk assessment; (e) feasibility assessment and implementation of final remedial alternatives; and (f) ongoing monitoring. The remaining activities require a schedule for completion, which is reflected in this Order. This Order leaves Cleanup and Abatement Order No. 99-6 intact for the purpose of enforcement for violations of Cleanup and Abatement Order No. 99-6.

31. Discharge prohibitions contained in the Basin Plan apply to this Site. State Water Resources Control Board Resolution 68-16 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."

32. 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.

33. 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)).

34. 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, Section 15321.

35. 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, except for the purposes of enforcement of past violations, Cleanup and Abatement Order No. 99-6 is hereby rescinded, and that pursuant to California Water Code Sections 13267(b) and 13304, the Dischargers shall cleanup and abate the discharge and threatened discharge and shall comply with the provisions of this Order:

1. All work performed at this Site shall be conducted in accordance with all local ordinances under the direction of a California Registered Geologist or Registered Civil Engineer experienced in pollution investigation and cleanup. All necessary permits shall be obtained.

2. By November 1, 2002, submit a report of findings from the workplan approved on May 22, 2002, documenting sediment characteristics at multiple depths adjacent to the Site as well as an evaluation of sediment depositional patterns in Humboldt Bay.

3. By February 5, 2003, the Dischargers shall submit for concurrence by the Executive Officer a public participation plan including, but not limited to the following items:

   a. A description of the purpose of the public participation plan and brief summary of the Site;
   b. History and pertinent background information on the Site and overview of the demographics of the nearby community;
   c. A summary of community issues or concerns expressed during interviews or other information gathering efforts;
   d. A list of activities to be conducted to accomplish public involvement with the project as well as personnel who will implement the public participation plan. This section shall include public notices for availability of plans, reports, and other relevant documents for public review, the location of public document repositories, and a fact sheet for dissemination to interested parties which will summarize the Site status and conditions and solicit comments and concerns related to the Site;
   e. An outline schedule for activities to be conducted at the Site; and
   f. A list of references used to develop the public participation plan.

   The Dischargers shall update the public participation plan periodically, as necessary.

4. By April 10, 2003, submit a report of findings from the workplan approved on July 25, 2002, documenting Site soil characteristics identified in accordance with the prescriptive standards of Chapter 15.

5. By July 15, 2003, submit a feasibility study and interim remedial action workplan to address interim remedial alternatives, which will achieve Chapter 15 compliance. The interim remedial actions shall be implemented within 45 days of Executive Officer concurrence with the interim remedial action workplan.

6. By October 20, 2003, submit a revised ecological and human health risk assessment report for Executive Officer concurrence.

7. At least eight months prior to seeking or applying for any entitlement for development of the Site, the discharger shall submit for Executive Officer concurrence, a final feasibility and remedial action plan proposing final remedial alternatives and identifying the preferred remedial alternative(s). The selected remedial alternative(s) shall ensure protection of water quality, human health, and the environment and include a post-remedial action monitoring plan.

8. Within 45 days following Executive Officer concurrence with a final remedial alternative, submit a corrective action workplan and schedule for implementing the selected cleanup and abatement alternative.

9. Within 30 days following Executive Officer concurrence, initiate the permitting process, as needed, to implement the approved corrective action workplan. Implementation of corrective actions shall commence no later than 30 days following receipt of required permits. The Dischargers shall implement the corrective action workplan in accordance with the schedule concurred by the Executive Officer.

10. Comply with Provisions of Monitoring and Reporting Program Order No. R1-2001-25, incorporated herein by this reference, and submit combined surface water and groundwater monitoring reports in accordance with the following schedule:

Reporting Period	Due Date
May, June, July	August 15
August, September, October	November 15
November, December, January	February 15
February, March, April	May 15

11. The Dischargers shall promptly pay in accordance with the invoicing instructions all invoices for Regional Water Board oversight, including associated oversight costs for the Office of Environmental Health Hazard Assessment review of necessary documents related to the human health and ecological risk assessment.

12. 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 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.

Ordered by _____
Susan A. Warner
Executive Officer

October 3, 2002

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