

California Regional Water Quality Control Board
North Coast Region

Cleanup and Abatement Order No. R1-2005-0104

for

Chevron Products Company
and
ExxonMobil
and
R. E. Davenport Incorporated
and
Robert E. and Marjorie S. Davenport
and
Harry E. Davenport

34 Waterfront Drive
Eureka

Humboldt County

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

1. In 1932, a bulk petroleum storage facility (hereinafter Site) was built and operated by Signal Oil Company (Signal) on property owned by Garland A. Dungan at 34 Waterfront Drive in Eureka as shown on Attachment A to this Order (currently identified as Assessor Parcel Number 001-012-006). Three 10,000-gallon aboveground tanks (AGTs) were installed. The AGTs were constructed using rivets and had no secondary containment. Regular maintenance of the three AGTs was required because of extensive railroad activity immediately adjacent to the Site that resulted in vibration damage to the AGTs. Petroleum product was delivered to the Site via a pipeline from the railroad spur at the front of the property. The product was stored in the AGTs and used to fuel the commercial fishing vessels of Humboldt Bay.
2. In 1943, Signal purchased the Site from Mr. Dungan. Two additional 20,000-gallon AGTs and two underground storage tanks (USTs) were installed after the purchase of the Site. Additional remodeling included the installation of a loading dock to provide delivery of petroleum products to retail gasoline service stations.
3. In 1953, the Site was remodeled again. The three original 10,000-gallon AGTs were replaced with two 15,000-gallon AGTs and one 10,000-gallon AGT. The new AGTs were constructed on concrete slabs with wooden saddles to reduce the vibrations to the AGTs from the adjacent rail yard. Signal operated at the Site continuously until 1967.

4. Between 1932 and 1967, Standard Oil Company, a Delaware Corporation, operated as Signal Oil Company. Standard Oil Company later became Chevron Products Company.
5. In 1967, Humble Oil and Refining (Humble) purchased the property from Standard Oil Company and began operations that continued until 1972.
6. Between 1972 and the present, Humble became identified as ExxonMobil.
7. In 1972, Robert E. and Marjorie S. Davenport purchased the Site from Humble. R. E. Davenport Incorporated operated the Site until 1994.
8. Between 1932 and 1972 operations at the Site included unloading petroleum product from rail tanker cars and fuel trucks at the pump house. The five large pumps that extracted fuel and transferred it to the AGTs and USTs had bleeder valves to remove air locks in the transfer pipeline. A copper pipe was also used to remove the air lock and product would be drained into a five-gallon bucket. Frequent overflow of the five-gallon bucket to the ground surface has been reported during Site operations from 1932 to 1972. The pump bleeder system was redesigned to eliminate overflow into the five-gallon bucket in 1972.
9. Between December 1994 and June 1995, the Regional Water Board received \$46,459.12 from the State Water Resources Control Board Cleanup and Abatement Account to address the cleanup of over 178 fifty-five gallon drums, a 1,000 gallon aboveground waste oil tank with contaminated water in its secondary containment structure, oily surface debris, contaminated soils, and waste batteries. The intervention was required because of direct discharge of petroleum product into Humboldt Bay as noted by the United States Coast Guard and the failure of the dischargers identified at the time to immediately abate the discharge. Regional Water Board staff inspection reports include descriptions of extensive and severe contamination of the Site surface with petroleum hydrocarbons.
10. In December of 1994, Humboldt County Environmental Health Department (HCEHD) staff began requesting either the permitting or the removal of a single 550-gallon UST. In March and May of 1998, a permit to remove one kerosene UST was submitted to the HCEHD. During the tank removal on May 19, 1998, a second 550-gallon UST was discovered and removed.
11. In December of 1998, title to the property was transferred to Harry E. Davenport. The Site had been vacant since November of 1994.
12. The record indicates that petroleum products, including diesel fuel, gasoline, lube oil, kerosene, waste oil, stoddard solvent, and other miscellaneous fuels were stored on-site between 1932 and 1994.

13. Several investigations since 1999 have documented discharges to soil and groundwater at the Site. Laboratory analysis from soil and groundwater samples collected at the site have detected Total Petroleum Hydrocarbons (TPH) as gasoline, TPH as diesel, TPH as kerosene, stoddard solvent, benzene, and methyl-tert-butyl-ether (MTBE). TPH as gasoline is present in groundwater at levels up to 2,900 parts per billion (ppb), TPH as diesel is present at levels up to 4,600 ppb, and benzene is present at levels up to 340 ppb. The water quality objectives for TPH as gasoline, TPH as diesel and benzene are 50, 100, and 1 ppb, respectively.
14. In September of 2002, surface water from seeps at the edge of Humboldt Bay was sampled. MTBE was present in seepage waters discharging into Humboldt Bay at up to 14 ppb.
15. In October of 2002, consultants for Chevron Products Company installed four additional monitoring wells at the site and on adjacent parcels in order to further determine the horizontal extent of contamination. The report of findings was submitted on February 28, 2003.
16. On March 18, 2004, State Water Resources Control Board staff in the Division of Financial Assistance informed Harry E. Davenport and R. E. Davenport that costs for investigation and abatement activities connected with the discharge of MTBE from the USTs at the Site would be reimbursed from the UST Cleanup Fund.
17. In June of 2005, surface water from seeps at the edge of Humboldt Bay was sampled. MTBE and TPH as gasoline were present in seepage waters discharging into Humboldt Bay at up to 43 ppb and 53 ppb, respectively.
18. Chevron Products Company, ExxonMobil, R. E. Davenport Incorporated, Robert E. Davenport, Marjorie S. Davenport, and Harry E. Davenport are hereinafter referred to as Dischargers at the Site.
19. The Site is located adjacent to Humboldt Bay, and overlies deposits of fill and sands. Shallow groundwaters underlie the site less than four feet below the ground surface (bgs). Groundwater levels in the upper aquifer under portions of the site fluctuate directly with Humboldt Bay tides, and these groundwaters are in continuity with surface waters of Humboldt Bay.
20. The beneficial uses of the areal groundwater include:
 - a. domestic water supply
 - b. agricultural supply
 - c. industrial supply

21. The beneficial uses of Humboldt Bay include:
 - a. agricultural supply
 - b. industrial service supply
 - c. navigation
 - d. water contact recreation
 - e. non-contact water recreation
 - f. commercial and sport fishing
 - g. cold freshwater habitat
 - h. wildlife habitat
 - i. rare, threatened, or endangered species
 - j. marine habitat
 - k. migration of aquatic organisms
 - l. spawning, reproduction, and/or early development
 - m. shellfish harvesting
 - n. estuarine habitat
 - o. aquaculture
22. 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.
23. 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 and abatement activities are to provide attainment of background levels of water quality or the highest water quality that is reasonable if background levels of water quality cannot be restored. Alternative cleanup levels greater than background concentration 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.

24. Water quality objectives in the Basin Plan are adopted to ensure protection of the beneficial uses of water. The most stringent water quality objectives for protection of all beneficial uses are selected as the protective water quality criteria. Alternative cleanup and abatement actions must evaluate the feasibility of, at a minimum: (1) cleanup to background levels, (2) cleanup to levels attainable through application of best practicable technology, and (3) cleanup to protective water quality criteria levels. Attachment B, attached to and made part of this Order, sets out the water quality objectives for waters of the State impacted by discharges from the Site.
25. 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."
26. 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.
27. 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 (at Public Resources Code Section 21000 et seq.; ("CEQA")).
28. 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 15351, Chapter 3, Title 14 of the California Code of Regulation.
29. 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 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.
30. 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 facility consistent with California Water Code. This Order may be revised by the Executive Officer as additional information becomes available.

THEREFORE, IT IS HEREBY ORDERED that pursuant to California Water Code (CWC) Sections 13267(b) and 13304, the Dischargers shall cleanup and abate the discharge and threatened discharge of petroleum hydrocarbons and other wastes stored in aboveground storage tanks forthwith and shall comply with the following provisions of this Order:

1. Conduct the investigation and cleanup tasks under the direction of a California registered geologist or registered civil engineer experienced in the soil, groundwater, and surface water assessment and remediation.
2. Take no action that 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 waters of the state.
3. Submit a workplan for the definition of the complete vertical and horizontal extent of soil and groundwater contamination associated with the AGTs to the Executive Officer by January 5, 2006.
4. Implement the workplan within 30 days of concurrence with the workplan by the Executive Officer.
5. Submit a remedial action plan that evaluates at least three alternatives to clean up the site to the Executive Officer by September 1, 2006.
6. Implement the chosen remedial action within 60 days of concurrence by the Executive Officer of the Regional Water Quality Control Board.
7. Pay all cost recovery invoices within 30 days of issuance of the invoice.
8. 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 concurred with by the Executive Officer, the Dischargers may request in writing, an extension of time as specified. The extension request must be submitted five (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. An extension may be granted for good cause, in which case this Order may be revised accordingly.

9. Failure to comply with the terms of this Order may result in enforcement under the CWC. 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 CWC Section 13267, 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 CWC Section 13350(e), subject to administrative civil liabilities of up to five thousand dollars (\$5,000.00) per day or ten dollars (\$10.00) per gallon of waste discharged.

Ordered by _____

Catherine E Kuhlman
Executive Officer

October 25, 2005