
North Coast Regional Water Quality Control Board

February 12, 2019

Mr. Sanel Ljesnjanin
306 Gold Street, 15C
Brooklyn, NY 11201-3028

Mr. Uchenna Ukazim
1521 Alton Road, # 426
Miami Beach, FL 33139-3301

Dear Mr. Ljesnjanin and Mr. Ukazim:

Subject: **Notice of Violation** of Cleanup and Abatement Order R1-2018-0012, as modified by letter dated September 20, 2018

Site: **Hearst Road Diesel Spill**, 7501 Hearst Road, Willits, CA
Case Number 1NMC636

Mr. Sanel Ljesnjanin and Mr. Uchenna Ukazim (collectively, Dischargers) are hereby given notice of new and continued violations of Cleanup and Abatement Order No. R1-2018-0012, as modified by letter dated September 20, 2018 (attached).

I. Background

On January 25, 2018, the Regional Water Board issued to you Cleanup and Abatement Order No. R1-2018-0012 (CAO) in response to a December 2017 diesel fuel spill at the subject site (Property). On September 21, 2018, we notified you of numerous violations of that CAO. On September 20, 2018, the Regional Water Board issued to you a modification to the CAO, providing additional directives and deliverables to address the unauthorized discharge of waste on the Property. Since issuance of the September 21, 2018, Notice of Violation (NOV) and the September 20, 2018, CAO modification, we have received no response from you, no outstanding deliverables, and are aware of no further efforts made by you or your agents to clean up and abate the continuing impacts and threatened impacts to water quality associated with the remaining spilled diesel on the Property.

In addition, Regional Water Board staff are aware of an attempt to enroll the Property for coverage under State Water Resources Control Board General Order WQ-2017-0023-DWQ (Cannabis General Order), for proposed cannabis cultivation operations. The Regional Water Board is not processing the enrollment submitted on April 17, 2018, due to the

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unaddressed issues on the site including the ongoing threats to water quality and beneficial uses as a result of the diesel release and continued noncompliance with CAO R1-2018-0012.

Under the Cannabis General Order, prior to commencing any cultivation activities, cannabis cultivators must comply with all applicable requirements of the Regional Water Board's water quality control plan and any enforcement orders issued by the Regional Water Board. The Cannabis General Order further provides that an enrollee's coverage under the Order may be terminated for violation of any terms of the Order, or obtaining coverage under the Order by misrepresentation, or failure to disclose fully all relevant facts.

Lastly, please note that cultivators seeking to enroll in the Cannabis General Order must certify in the application process that the cultivation operation is in compliance with all applicable state, city, county, and local laws, regulations, ordinances, permits, and license requirements. In addition, an enrollee certifies that the information submitted on the application is true, accurate and complete, and acknowledges that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

II. Applicable Legal Authority and Requirements

A. Water Quality Control Plan for the North Coast Region (Basin Plan)

The Regional Water Board's Basin Plan contains the following water quality objectives for inland waters:

3.3.7 Oil and Grease

Waters shall not contain oils, greases, waxes, or other materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water that cause nuisance, or that otherwise adversely affect beneficial uses.

3.3.14 Tastes and Odors

Waters shall not contain taste- or odor-producing substances in concentrations that impart undesirable tastes or odors to fish flesh or other edible products of aquatic origin, or that cause nuisance or adversely affect beneficial uses. In no case shall waters designated for use as MUN contain concentrations of chemicals in excess of the numeric taste and odor limits established in title 22 and as prospectively incorporated in 3.4.3 Chemical Constituents.

B. Cleanup and Abatement Order, including Modification

The Regional Water Board Executive Officer issued CAO R1-2018-0012 and the September 20, 2018, Modification, pursuant to California Water Code sections 13304

and 13267. The CAO, including the September 20, 2018, Modification, direct you, in part, to:

Required Action 5.

Submit a weekly report to Regional Water Board staff providing updates on the status of compliance with this Cleanup and Abatement Order No. R1-2018-0012.

Required Action 14.

*By October 1, 2018, the Dischargers shall submit an **Interim Cleanup and Abatement Plan** that identifies interim measures to clean up diesel impacted soils and groundwater and abate the discharge of diesel fuel to surface water.*

Required Action 15.

By October 8, 2018, the Dischargers shall complete abatement of the discharge of diesel to Rocktree Creek from the Property. All efforts to abate the discharges shall be documented in the weekly reports described in Required Action 5. The complete abatement of the discharge shall be documented in the weekly report following complete abatement.

Required Action 16.

By November 19, 2018, the Dischargers shall submit an Interim Cleanup and Abatement Plan Completion Report.

Required Action 17.

By October 22, 2018, the Dischargers shall submit a revised Workplan for Additional Subsurface Investigation to define the extent of soil and groundwater contamination resulting from the spill.

General Requirements and Notices

- 7. Cost Recovery:** Pursuant to Water Code section 13304, the State or Regional Water Board is entitled to all reasonable costs it actually incurs to investigate and abate the effects of unauthorized discharges of waste and to oversee/supervise the cleanup of such waste, or other restoration action, required by this Order. The State Water Board's Site Cleanup Program Cost Recovery Program was established through the authorities of Water Code sections 13267, 13304, and 13365. The Dischargers shall pay all cost recovery invoices within 30 days of issuance of the invoice.

III. Alleged Violations

Basin Plan Water Quality Objectives for Inland Waters 3.3.7 and 3.3.14

The original discharge beginning on or about December 12, 2017, violated the Basin Plan. The California Department of Fish and Wildlife reported that the diesel was no longer discharging as of May 29, 2018, resulting in approximately **168 days of violation**.

On July 30, 2018, red diesel fuel was again visible in Rocktree Creek, resuming the violation of Basin Plan section 3.3.7 and section 3.3.14. Our September 21, 2018, Notice of Violation advised you that as of September 15, 2018, there had been 47 days of violation since July 30, 2018. **As of January 25, 2019, there have been an additional 89 days of violation, for a total of 136 days of violation since July 30, 2018.**

Required Action 5

The CAO, as modified, required submittal of weekly reports to Regional Water Board staff providing updates on the status of compliance. The last "Weekly Status Report" was received on March 5, 2018. Weekly reports have not been submitted since then. Our September 21, 2018, Notice of Violation provided a table showing missing reports number 7 through 31, those reports that had been due weekly from March 15, 2018, through August 30, 2018. You have continued to fail to submit weekly reports, with several more reports now missed **As of January 25, 2019, you have now failed to submit 46 weekly reports. Each missed report constitutes a separate violation, with potential liability accrued for each day late.**

Required Action 14

A new Interim Cleanup and Abatement Plan including all items identified under Required Action 4 of the CAO was to be submitted to this office by October 1, 2018. That plan has not been submitted. **As of January 25, 2019, the plan is 116 days late.**

Required Action 15

By October 8, 2018, the Dischargers should have completed abatement of the discharge of diesel to Rocktree Creek from the Property. As of January 25, 2019, the discharge into the Rocktree Creek has not been abated. **As of January 25, 2018, this is 109 days late since October 8, 2018.**

Required Action 16

By November 19, 2018, the Dischargers should have submitted an Interim Cleanup and Abatement Plan Completion Report. As of December 13, 2018, this Plan has not been submitted. **As of January 25, 2019, this is 67 days late since November 19, 2018.**

Required Action 17

By October 22, 2018, the Dischargers should have submitted a revised Workplan for Additional Subsurface Investigation to define the extent of soil and groundwater

contamination resulting from the spill. As of December 13, 2018, this Workplan has not been submitted. **As of January 25, 2019, this is 95 days late since October 22, 2018.**

General Requirement 7

On May 1, 2018, the State Water Resources Control Board issued invoice SC-109600 for \$15,647.13 to the Dischargers for cost recovery charges incurred from January 2018 through March 2018. The CAO required payment of the invoice within 30 days (May 31, 2018) of the date of the invoice. To date, the invoice has not been paid.

Our September 21, 2018, Notice of Violation advised you that as of September 15, 2018, there had been 107 days of violation since July 30, 2018. **As of January 25, 2019, there have been an additional 132 days of violation since September 15, 2018, for a total of 239 days of violation since May 31, 2018.**

This is your second Notice of Violation for failure to comply with the directives of CAO No. R1-2018-0012. Please note, that failure to comply with requirements of this Order may result in assessment of administrative civil liability of up to \$10,000 per violation per day and \$10 per gallon of waste discharged pursuant to Water Code sections 13268, 13350 and/or 13385.

By no later than March 15, 2019, please contact my staff to advise of your plans (1) to comply with all outstanding and upcoming requirements of the CAO, and (2) to complete the cleanup on the Property.

Future Enforcement Action

Please note that correcting the conditions of noncompliance regarding Property operations and reporting does not preclude enforcement for the violations alleged in this notice. The Regional Water Board reserves its rights to fully enforce the law against any violation, and threatened violation, by taking enforcement actions such as a cease and desist order, time schedule order, administrative civil liabilities, and referral to the California Attorney General's office. Administrative civil liabilities may be assessed beginning with the date that a violation first occurred. The administrative liabilities for violations of the cleanup and abatement order can be more than \$10,000 per day per violation.¹

In addition, under Water Code section 13304, the Regional Water Board is entitled to recover its costs incurred in cleaning up the waste, abating the effects of the waste, or taking other remedial action. As noted above, cost recovery charges incurred from January 2018 through March 2018 total \$15,647.13. Pursuant to Water Code section 13304 subdivision (c) (2) the Regional Water Board may record a lien on the property in the amount of the costs expended that have not been reimbursed.

¹ As noted above, you may be found liable for an additional \$10 per gallon of oil discharged.

Should you have any questions regarding this matter, please contact Craig Hunt of our Cleanup Division, at Craig.Hunt@waterboards.ca.gov or (707)570-3767 or Diana Henriouille, Enforcement Coordinator, at Diana.Henriouille@waterboards.ca.gov or (707) 576-2350.

Sincerely,

Joshua Curtis
Assistant Executive Officer

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Attachment: September 20, 2018 CAO modification

Certified - Return Receipt Required

cc: Mr. Will Nalty, Mendocino County EHD, naltyw@co.mendocino.ca.us
Ms. Trisha Taniguchi, Fish and Wildlife, trisha.taniguchi@wildlife.ca.gov
Mr. Jeff Dayton, Fish and Wildlife, jeff.dayton@wildlife.ca.gov
Mr. Hans W. Herb, Law Offices of Hans W. Herb, hans@tankman.com
Ms. Kelsey McLaughlin, LACO Associates, mclaughlink@lacoassociates.com
Mr. Erich Rauber, LACO Associates, raubere@lacoassociates.com
Mr. Morgan Jones, LACO Associates, jonesm@lacoassociates.com
Ms. Christine S. Manhart, LACO Associates, manhartc@lacoassociates.com
Mr. Brian Paulson, Paulson Excavating, Inc., paulson@mcn.org
Ms. Lucy Shido, shedoelu@outlook.com
Mr. David Drell, Willits Environmental Center, ebikeswillits@sbcglobal.net
Mr. Clint Gerber, clint_gerber@yahoo.com
Mr. Lee Howard, Lee Howard Construction, lohoward@sonic.net
Ms. Chevon Holmes, Mendocino County Cannabis Program Administrator, holmesc@mendocinocounty.org
Ms. Angela Liebenberg, Fish and Wildlife, Angela.Liebenberg@wildlife.ca.gov