

California Regional Water Quality Control Board
North Coast Region

Complaint No. R1-2001-39

Administrative Civil Liability Complaint
in the Matter of

Redwood Oil Company
Robert I. Barbieri
Peter C. Van Alyea
Peggy R. Van Alyea

455 Yolanda Avenue
Santa Rosa

Sonoma County

For

Failure to Comply with Cleanup and Abatement Order No. R1-2000-34

The Executive Officer of the California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board) gives notice that:

1. This Complaint is issued to Redwood Oil Company, Robert I. Barbieri (Barbieri), Peter C. Van Alyea (Van Alyea) and Peggy R. Van Alyea, based on violation of Cleanup and Abatement Order No. R1-2000-34 pursuant to California Water Code Section 13350, which authorizes the imposition of Administrative Civil Liability for violations of a Cleanup and Abatement Order (CAO).
2. Barbieri, Van Alyea, and Peggy R. Van Alyea own property at 455 Yolanda Avenue in Santa Rosa (hereinafter Site). Redwood Oil Company operates a bulk petroleum facility at 455 Yolanda Avenue. Barbieri and Van Alyea operate Redwood Oil Company.
3. On April 6, 2000, Regional Water Board staff met with Barbieri, Van Alyea and Redwood Oil Company representatives to discuss the issuance of a CAO and identify tasks to be completed, and compliance dates. At that time, a Redwood Oil Company card lock facility was under construction immediately adjacent to the Site at 459 Yolanda Avenue. Therefore, effort was made to coordinate corrective action and compliance dates with the card lock construction schedule due to engineering and logistical constraints. Barbieri, Van Alyea, and Redwood Oil Company representatives proposed the compliance dates identified in the CAO.
4. On May 5, 2000, the Regional Water Board Executive Officer issued CAO No. R1-2000-34 to Redwood Oil Company, Barbieri, Van Alyea and Peggy R. Van Alyea. Redwood Oil Company, Barbieri, Van Alyea and Peggy R. Van Alyea violated the following requirement of CAO No. R1-2000-34:

Task I. Begin operation of the soil and groundwater treatment and plume migration control systems by October 1, 2000.

5. On September 21, 2000, Redwood Oil Company requested a 30-day extension to begin operation of the soil and groundwater treatment and plume migration control systems. The extension request was due to the need to pressure test subsurface piping in the presence of Santa Rosa Fire Department (SRFD) staff prior to system operation. Regional Water Board staff denied the extension based on the Regional Water Board staff's verification that Redwood Oil Company failed to schedule the pressure test with SRFD staff in advance of the compliance date.
6. Beginning on October 24, 2000, Redwood Oil Company submitted periodic status reports. The proposed start date to begin operation of the soil and groundwater treatment and plume migration control systems was delayed with each status report. In these status reports, Redwood Oil Company reported that the air sparge system began intermittent and low flow operation on September 15, 2000 and groundwater extraction began on February 2, 2001.
7. On February 7, 2001, Regional Water Board staff conducted a site inspection. Regional Water Board staff found that the system was being installed contrary to design, system installation was incomplete, the system was no longer operating and significant system changes had been made without notification of Regional Water Board staff.
8. On March 29, 2001, Regional Water Board staff met with Barbieri, Van Alyea and Redwood Oil Company representatives to discuss the status of system installation and violation of Task I. On April 10, 2001, Redwood Oil Company submitted documentation regarding their efforts to comply with CAO No. R1-2000-34, Task I. Redwood Oil Company indicates that:
 - *"Permitting requirements delayed project startup (i.e. Planning Department public review, sound wall requirement), causing delays totaling 16 weeks (from time of Bldg. permit application 10/12/00 until Bldg. Dept. approval 1/30/01)."*
 - *"The complexity, size of this project and time to build were poorly estimated when we agreed to the date of system startup. Construction completion deadline should have been made pending permit acquisition."*
9. The Executive Officer has since determined that the October 1, 2000, compliance deadline did not afford enough time to obtain the necessary permits for operation of the treatment system. Accordingly, the Executive Officer has since extended the deadline from October 1, 2000, to January 20, 2001.
10. As of the date of this Complaint, the treatment system is still not fully operational as designed or required. On April 27, 2001, Redwood Oil Company representatives submitted a report confirming Regional Water Board staff findings during the February 7, 2001 inspection: the system was not installed as designed and system installation is incomplete. As of April 27, 2001, discrepancies between the system design and the installed system include:

Groundwater Extraction System (ten groundwater extraction wells)

- Locations do not conform to design. Although most locations are sufficiently close to the design locations, three groundwater extraction wells are installed in a cluster southeast of northern tank excavation and is a significant change.
- One well was installed to only 20 feet bgs rather than to 30 feet bgs.
- Numerous kinks, bends and twists were observed in the ¾" geoflex effluent return lines.

Soil Vapor Extraction System (twelve vapor extraction wells)

- Only seven of the twelve wells were installed.
- Six of the wells were installed as dual-phase GWE-SVE wells, contrary to design.
- PVC vapor return conduit is not properly attached and glued to the wellheads. When the system operates it draws mostly ambient air.
- Vacuum pressure gauges and sample ports were not installed as required by the design.

Air Sparge System (fourteen air injection points)

- Seventeen injection wells were installed. Of the seventeen, only eight are connected to the air supply.
- Sparge points and flow meters were not installed. The air injection wells were installed with slotted ¾" PVC.
- Air injection wells were not properly grouted. During system testing, vapor odors were detected at ground surface.
- Kinks were observed in the copper air supply tubing.

On April 27, 2001, Redwood Oil Company proposed system changes/modifications; therefore, the date to begin operation of the soil and groundwater treatment, and plume migration control systems, is currently unknown.

11. Under Section 13350 of the California Water Code, civil liability may be imposed by a regional water board pursuant to article 2.5 (commencing with section 13323) for a violation of a cleanup and abatement order an amount which shall not exceed five thousand dollars (\$5,000), but shall not be less than five hundred dollars (\$500), for each day in which the cleanup and abatement order is violated.
12. In determining the amount of the civil liability, the Executive Officer of the Regional Water Board must take into consideration the factors described in Section 13327 of the California Water Code. The factors described include:
 - The nature, circumstance, extent, and gravity of the violation,
 - Whether the discharge is susceptible to cleanup or abatement,
 - The degree of toxicity of discharge,
 - With respect to the violators, the ability to pay and the effect on ability to continue in business,

- Any voluntary cleanup efforts undertaken,
- Any prior history of violations,
- The degree of culpability,
- The economic savings, if any, resulting from the violation,
- Other such matters as justice may require.

Nature, Circumstance, Extent and Gravity of the Violation

Failure to operate the system allows the continual leaching of petroleum hydrocarbons from soil to groundwater and the uncontrolled lateral and vertical migration of Methyl tertiary Butyl Ether (MtBE) and Tertiary Butyl Alcohol (TBA). Soil beneath the former underground storage tank system contained total petroleum hydrocarbons as gasoline (TPHg) at up to 22,000 parts per million (ppm). Groundwater in the former tank pit contained TPHg at 1,300,000 parts per billion (ppb). MtBE has been detected in groundwater beneath the Site at up to 600,000 ppb. Two water supply wells were impacted and abandoned; the onsite well contained up to 0.48 feet of separate phase hydrocarbons and the well located at 459 Yolanda Avenue contained dissolved phase petroleum hydrocarbons.

MtBE and TBA are gasoline oxygenate additives which have migrated offsite laterally and vertically and have been detected in groundwater to a depth of approximately 180 feet below ground surface (bgs). The discharge threatens actively used water supply wells. The vertical and lateral extent of MtBE and TBA have not been defined.

Susceptibility to Cleanup and Abatement

Site conditions are susceptible to cleanup and abatement through the proper installation and operation of the soil and groundwater treatment and plume migration control systems.

Degree of Toxicity of Discharge

Benzene has been detected in groundwater beneath the Site at up to 36,000 ppb. Benzene is a human carcinogen with a Department of Health Services Maximum Contaminant Level of 1.0 ppb.

MtBE has been detected in groundwater beneath the Site at up to 600,000 ppb. MtBE has also been detected at 210 parts per billion in shallow groundwater immediately adjacent to a public water system supply well located at 468 Yolanda Avenue. The well is 200 feet deep with perforations extending from 160 to 180 feet bgs and is the water source for a commercial business complex serving 35 businesses and up to 115 occupants. MtBE has been detected in close proximity to the well ranging from 13 to 2,100 ppb to a depth of 165.5 feet bgs. The health effects of MtBE are not completely known. The office of Environmental Health Hazards Assessment has established a public health goal of 14 ppb. The State Department of Health Services secondary drinking water standard is 5 ppb.

Ability to Pay and Ability to Continue in Business

Redwood Oil Company, according to the August 2000 news article in the Press Democrat, has yearly revenues of one hundred and fifty million dollars (\$150,000,000.00) and owns five fleet fueling stations, seventeen Chevron Stations, and eighteen tank trucks. The Underground Storage Tank Cleanup Fund reimburses eligible costs for the groundwater investigation and cleanup.

Voluntary Cleanup Efforts Undertaken

Regional Water Board staff has no information regarding any voluntary cleanup efforts undertaken.

Prior History of Violations

Violations of other orders at other Redwood Oil facilities exist. This CAO was issued because of delays in investigation and cleanup at the Site and threat to neighboring water supply wells.

Degree of Culpability

Redwood Oil Company, Barbieri, Van Alyea and/or Peggy R. Van Alyea failed to operate the soil and groundwater treatment and plume migration control systems because of delays and incomplete oversight of their contractor.

Economic Savings

The economic savings to Redwood Oil Company, Barbieri, Van Alyea and Peggy R. Van Alyea, as a result of the violation are unknown.

Other Matters as Justice May Require

While the Regional Board Executive Officer has determined that four months given to obtain the necessary permits was insufficient, Redwood Oil Company did not diligently pursue permit acquisition. For example, Redwood Oil Company applied for two of the permits after the October 1, 2000 compliance date.

13. The dischargers failed to operate the soil and groundwater treatment system from January 21, 2001 (the extended compliance date) to April 30, 2001; thus, there has been a total of 100 days of violation. Pursuant to California Water Code section 13350(d)(1), the maximum potential administrative civil liability for 100 days of violation is \$500,000; the minimum potential administrative civil liability is \$50,000.
14. The issuance of a Complaint for Administrative Civil Liability is an enforcement action by a regulatory agency, and is, therefore, exempt from the provision of the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 et seq.) in accordance with Title 14, California Code of Regulations, Section 15321 (a)(2).
15. This settlement will not become effective until after a 30-day public comment period.

Proposed Civil Liability

Based on the above factors, I hereby propose Redwood Oil Company, Barbieri, Van Alyea, and Peggy R. Van Alyea collectively pay the minimum Administrative Civil Liability in the amount of fifty thousand dollars (\$50,000).

Waiver of Hearing

Redwood Oil Company, Barbieri, Van Alyea, and Peggy R. Van Alyea may waive their right to a hearing. If these parties wish to waive the hearing, a representative should sign the enclosed waiver and return it together with a cashier's check or money order, made payable to the "State Water Resources Control Board," for the amount of civil liability proposed above by May 29, 2001 to the California Regional Water Quality Control Board, North Coast Region, 5550 Skylane Boulevard, Suite A, Santa Rosa, CA 95403.

Ordered by _____

Lee A. Michlin
Executive Officer

May 4, 2001