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3 10567 Mariposa Avenue
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7
8 **BEFORE THE STATE OF CALIFORNIA**
9 **STATE WATER RESOURCES CONTROL BOARD**

10
11 **Ken Berry, and**
12 **California Citizens for Environmental**
13 **Justice**
14 **Petitioners**
15 **North Coast Regional Water Quality**
16 **Control Board**
17 **Acting Agency**
18 **City of Willits (Property Owner)**
19 **Willits Environmental Remediation**
20 **Trust (Responsible Party)**
21 **State Water Resources Control Board,**
22 **Office of Chief Counsel (Acting Agency in**
23 **Fact)**
24 **Real Parties in Interest**

PETITION NO. _____

AMENDMENT NO 1 TO
PETITION FOR REVIEW
OF REFUSAL TO ENFORCE THE
CALIFORNIA WATER CODE AND
THE UNITED STATES CLEAN
WATER ACT

(Water Code §13320)

24 **INTRODUCTION**

25 1. The Office of Chief Counsel of the State Water Resources Control Board (State Board)
26 stated that the original PETITION FOR REVIEW (Petition) in this case is defective for the following

1 reason: "The request for action cited a portion of a monitoring report but says nothing about the
2 alleged discharger or any actions or inactions the [North Coast Regional Water Quality Control
3 Board (Regional Board)] may have taken or failed to take regarding a discharger."

4 **RESPONSE**

5 2. The Responsible Party was identified in the Petition as follows:

6 //

7 Willits Environmental Remediation Trust (Responsible Party)

8 6016 Princeton Reach Way

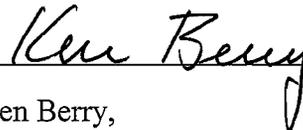
9 Granite Bay, CA 95746

10 //

11 3. The letter dated June 10, 2009, in which Petitioners requested the Regional Board to take
12 action fully identifies the source of the report that shows the continuing discharge of Cr+6 into Darby
13 Creek. In particular, the report was prepared for the Regional Board on behalf of the Willits
14 Environmental Remediation Trust (Trust) and that fact is documented in Petitioner's letter.

15 4. Attachment A is "Fact Sheet No. 32", which is published by the Trust and is concerned
16 with the Page Property. On page 2, right hand column, at the end of the second paragraph from the
17 bottom, the statement "Recent data indicates that *hexavalent chromium* impact to Darby Creek has
18 been nearly eliminated, as shown on Figure 4 (Page 8)." There is no page 8 in the copy of Fact Sheet
19 32 downloaded from the Trust's website, but this document demonstrates that the report included
20 in the original petition shows that the Trust is the responsible party, and the Regional Board has not
21 taken action to protect the environment, as required by the Water Code.

22 Dated: September 30, 2009

23
24 

25 /s/ Ken Berry,

26 California Citizens for Environmental Justice

27 - Page 2 of 3 -

28 **AMENDMENT NO 1 TO PET. FOR REV. OF REFUSAL TO ACT (DARBY CREEK)**

Final Remedial Investigation Report
Page Property (Old Willits Landfill)
Willits, California

Fact Sheet No. 32

October 2008

Introduction

The *Final Remedial Investigation Report* (“*Final RI Report*”)¹ has been completed by the *Willits Environmental Remediation Trust* (“the *Willits Trust*”) for the *Page Property* (or “*Property*”) also known as the Old Willits Landfill located on Canyon Road, northeast of Willits, California. The *Final RI Report* summarizes the environmental or “remedial” investigations that have been completed at the *Page Property*, and the conditions that are found there. A copy of this document, and other important *Site*-related documents, is available for review at the *Document Depository* located at 675 South Main Street in Willits, California. The document is also available electronically for the public’s review on the *Willits Trust* website (www.WillitsTrust.org). The remedial investigation has been conducted in compliance with the *Consent Decree* and the *Remedial Investigation/Feasibility Study Work Plan* (“*RI/FS Work Plan*”). Both the *Consent Decree* and the *RI/FS Work Plan* are also available for review at the *Document Depository* and on the *Willits Trust* website.

The *Draft RI Report* was completed and distributed on August 19, 2008. As required by the *Consent Decree* and the *RI/FS Work Plan*, the *Draft RI Report* was placed in the *Document Depository* by the *Willits Trust* for review and public comment, the *Willits Trust* invited all interested parties to review and comment on the *Draft RI Report* during the review period, from August 19, 2008 through September 18, 2008.

Upon completion of the comment period, the *Willits Trust* responded in writing to all written comments provided during the comment period. Responses were mailed to the individual who submitted comments, and are also contained in Appendix A of the *Final RI Report*. The *Final RI Report* was completed and distributed October 30, 2008, including a copy that has been placed in the *Document Depository*.

This Fact Sheet provides a brief summary of the information presented in the *Final RI Report*, as well as a description of the upcoming steps in the remedial process at the *Property*.



Figure 1: Page Property Location

Property Background

The *Page Property* is a rectangular parcel of approximately 2.4 acres located in the foothills surrounding Little Lake Valley, approximately 3 miles northeast of downtown Willits, in Mendocino County, California (Figure 1).

In the 1940s, the City of Willits acquired the *Property* for use as a municipal landfill and subsequently began municipal waste disposal operations. Beginning in the late 1960s, liquid waste from chrome plating operations from the Remco Facility, as well as liquid industrial waste from other industrial operations in the Willits area, was collected and disposed at the *Page Property*. Municipal waste disposal operations ceased in approximately 1970, while the disposal of liquid industrial wastes ceased in 1974.

Previous Investigation at the Property

Several environmental investigations have been conducted at the *Page Property* beginning in 1985, and continuing to the present. In 1988, the *California Regional Water Quality Control Board, North Coast Region* (*RWQCB* or *Water Board*) directed the City of Willits to conduct an environmental investigation at the *Property*. The City completed several phases of environmental investigations during the period of 1988 to 2003 and also conducted a remedial action at the *Property* in October 1995 that consisted of the removal of contaminated soils in the area of the former disposal ponds.

1. All *italicized* terms are defined in the glossary at the end of this Fact Sheet.

Final Remedial Investigation Report
Page Property (Old Willits Landfill)
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In November of 2003, the *RWQCB* issued a revised Monitoring and Reporting Program to the City of Willits and *PepsiAmericas*, requesting that additional groundwater and surface water monitoring and remedial actions be conducted at the *Property*. In response to this request, in January 2004, the City of Willits and *PepsiAmericas* requested that the *Willits Trust* conduct the investigatory and remedial Work with regard to any *Remco*-related waste at the *Property*.

Willits Trust Property Investigation

Beginning in 2004, the *Willits Trust* conducted remedial investigations activities to characterize the nature and extent of environmental impact at the *Property* resulting from historical industrial waste disposal associated with the Former *Remco Hydraulics Facility*.

Investigation activities have included:

- A detailed survey of the *Property* to identify natural and man-made features and current surface topography;
- Procurement of historical information related to the *Property* through the review of historical reports and files (regulatory, municipal and private), historic topographic maps, and old photographs;
- Sampling and analyses of environmental media at and surrounding the *Property* including groundwater from 31 locations, soil moisture from 11 locations, surface soil samples from 28 locations, subsurface soil from 31 locations, sediment from Darby and Page Creeks at 10 locations, and surface water samples from Darby and Page Creeks at 24 locations; and,
- A survey of potable water sources within 1-mile of the *Property*.

The data reviewed and presented in the *Final RI Report* includes both historical data collected for the *Property* and data collected by the *Willits Trust* from 2004 through February of 2008.

Physical Characteristics of the Site

The eastern portion of the *Property* is relatively level and includes the highest elevation on the *Property*. The western portion of the *Property* slopes toward Darby Creek. Groundwater is encountered at the *Property* in

the shallow sediments above bedrock (A-Zone groundwater) and deeper within the fractured bedrock (B-Zone groundwater). Consistent with the local topography, the groundwater flows to the west and south at the *Page Property*. Darby Creek is a seasonal drainage (typically flowing from winter through late spring) that runs in a southerly direction across the northwest corner of the *Page Property*. Darby Creek continues to the south, then trends to the northwest until the stream terminates in a low lying area in the northern portion of Little Lake Valley.

Extent of Chemicals Found at the Page Property

The primary *Remco*-related chemical detected at the *Page Property* is *hexavalent chromium*, which relates to spent chromic acid utilized during plating operations at the *Remco Facility*. The wastes were hauled to the *Property* by Wilson Page until early 1974. Elevated levels of *hexavalent chromium* have been confirmed in soils and groundwater beneath and to the west (*i.e.*, down hill) of the former liquid disposal ponds. As would be expected, the *hexavalent chromium* concentrations in soil and groundwater diminish as you move away from the former disposal ponds. The magnitude and extent of *hexavalent chromium* in groundwater is well defined at the *Property* as illustrated on Figures 2 and 3 (Page 6 and 7).

Hexavalent chromium has historically been detected at very low concentrations in surface water in Darby Creek, adjacent to and downstream of the *Property*. To reduce the impact of *hexavalent chromium* to Darby Creek, the *Willits Trust* constructed a shallow groundwater extraction and treatment system on the *Property*. This system began operating in early 2007. Since that time, concentrations of *hexavalent chromium* detected in Darby Creek have decreased substantially. Recent data indicates that *hexavalent chromium* impact to Darby Creek has been nearly eliminated, as shown on Figure 4 (Page 8).

Conceptual Site Model

Based on the data collected during the remedial investigation, a revised *Conceptual Site Model* ("*CSM*") has been developed which summarizes the nature and extent of contaminants at the *Property*. The *CSM* also illustrates the historical source area and

Final Remedial Investigation Report
Page Property (Old Willits Landfill)
Willits, California

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the movement of the contamination at the *Property* which is potentially related to *Remco*. The *CSM* for the *Property* is provided as Figure 5 (Page 8).

As indicated on the *CSM*, the source of the *hexavalent chromium* is the area of the former liquid disposal ponds, located near the top of the Old Willits Landfill. Liquid waste containing chromic acid was disposed of in the ponds and has migrated through the soil to groundwater. Other contaminants detected at the *Property* potentially related to *Remco* (e.g., 1,4-dioxane and chlorinated *VOCs*) are detected at relatively low concentrations in groundwater in the immediate vicinity of the former disposal ponds.

Groundwater impact does not extend west of Darby Creek and is limited primarily to property owned by the City of Willits. Importantly, no groundwater contamination has been detected in domestic drinking water supplies (wells or springs) in the vicinity of the *Property*.

Ongoing Work

The *Willits Trust* is currently conducting a *Baseline Risk Assessment* for the *Page Property*. The *Baseline Risk Assessment* will fully evaluate risks from potential *Remco*-related contamination to human health and ecological receptors. The *Willits Trust* anticipates completing the *Risk Assessment* in 2009. The Draft *Risk Assessment* Report will be made available for public review and comment in accord with the *Consent Decree*.

Continuing Opportunities for Public Involvement

The *Final RI Report* and other important *Site*-related documents are available for review at the *Document Depository*. The *Document Depository* is located at 675 South Main Street in Willits, California. The *Document Depository* is open to the public Tuesdays and Thursdays from 4:00 p.m. to 8:00 p.m., Wednesdays from 9:00 a.m. to 2:00 p.m., and Saturdays from 9:00 a.m. to 3:00 p.m.

To have your name placed on the mailing list to receive future Fact Sheets concerning the investigation and cleanup, please call the following toll-free information number: (800) 307-8181

You may also submit questions in writing by contacting any of the following individuals.

For questions relating to the progress of the work at the *Site* contact the *Willits Trust's* Project Manager:

Dr. Anne Farr
6016 Princeton Reach Way
Granite Bay, CA 95746

For legal questions relating to the investigation or cleanup of the *Site*, contact the Remedial Counsel for the *Willits Environmental Remediation Trust*:

Mr. A.J. Birkbeck
Fulcrum Law Group
2093 Robinson Road, 1st Floor
Grand Rapids, MI 49506

For questions regarding local regulatory oversight:

Mr. David Madrigal
City of Willits
111 East Commercial Street
Willits, CA 95490

For questions regarding state regulatory oversight:

Ms. Janice Goebel
Regional Water Quality Control Board
5550 Skylane Blvd., Suite A
Santa Rosa, CA 95403

Mr. Rick Robison
Department of Toxic Substances Control
700 Heinz Avenue, #210
Berkeley, CA 94710-2737

Every attempt will be made to respond to written correspondence to the *Willits Trust* or their representatives as soon as possible. Attempts will also be made to respond to hotline comments within 48 hours.

Glossary

Baseline Risk Assessment (BLRA) – An assessment conducted to assess current and possible future human health and ecological risks associated with residual contamination at a site in the absence of any cleanup.

Conceptual Site Model (CSM) – A description of known and potential sources and/or releases of chemicals; chemical migration pathways; potential

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exposure media; potential exposure routes and exposure pathways; and potential receptors.

Consent Decree – The United States District Court's Order which sets forth the legal framework which controls the manner of the investigation and cleanup of the *Site*. The original Final Consent Decree, Final Order And Judgment; Order Establishing the *Willits Trust*; And Order Of Reference To Special Master, was entered by the Court and became effective on August 22, 1997. An Amended Final Consent Decree, Final Order And Final Judgment; And Order Establishing The *Willits Trust* replaced the 1997 *Consent Decree* effective December 22, 2000.

Document Depository – The *Document Depository* for the *Site* is currently located at 675 South Main Street in Willits, California. The *Document Depository* is open to the public Tuesdays and Thursdays from 4:00 p.m. to 8:00 p.m., Wednesdays from 9 a.m. to 2 p.m., and Saturdays from 9:00 a.m. to 3:00 p.m.

Draft Remedial Investigation (RI) Report – The *Draft RI Report* was submitted for public review and comment as described in Fact Sheet 31.

Final Remedial Investigation (RI) Report – The Final RI Report evaluates and characterizes the source(s) and extent of contamination at and emanating from the *Page Property* as a result of the disposal of liquid wastes from the *Remco Facility* at the *Page Property*.

Hazardous Substances – The term as defined by CERCLA, including, without limitation, chromic acid, 1,1-dichloroethane ("1,1-DCA"), 1,2-dichloroethene ("1,2-DCE"), 1,1-dichloroethene ("1,1-DCE"), hexavalent chromium, tetrachloroethene ("PCE"), 1,1,1-trichloroethane ("1,1,1-TCA"), and trichloroethene ("TCE"), and other hazardous substances or hazardous wastes which result from historical *Remco*-related activities and which are, or may be discovered, at or emanating from the *Site* and which may require investigation or remediation to protect public health, welfare, and/or the environment.

Hexavalent Chromium (CrVI) – The highest oxidation state of chromium.

Interim Remedial Actions (IRA's) – A discrete set of planned actions intended to prevent, reduce, or retard the impact of a release or potential release of contaminants. *IRAs* may be conducted from the time a release is confirmed until the time a formal long-term

remedial action plan is implemented. *Interim remedial actions* may also help maintain or restore public health and safety.

In-Situ – in the natural or original place. When referring to a remedial action, it includes an action where the remedy occurs in place (in the subsurface), as opposed to bringing the contaminated media to the surface for treatment or disposal.

NCP – National Oil and Hazardous Substances Pollution Contingency Plan, provides the regulatory framework to be followed as part of the stringent Federal cleanup process. The *NCP* was promulgated by the United States Environmental Protection Agency and codified at 40 Code of Federal Regulations Part 300.

Page Property or Property, Old Willits Landfill – Refers to the parcel of land, approximately 2.4 acres, owned by the City of Willits that was formerly used as a municipal landfill. The *Property* is located off of Canyon Road in Mendocino County, approximately 2 miles northwest of the City of Willits.

PepsiAmericas – "*PepsiAmericas*" refers to PepsiAmericas, Inc., which has the funding obligations under the Consent Decree which created the Willits Trust.

Pilot Study – A study to evaluate the feasibility and performance of a remedial technology.

Remco Facility – "*Remco Facility*" or "*Facility*" refers to the boundaries of the former Remco Hydraulics, Inc. property, located at 934 South Main St. in Willits, California.

Remco Site or Site – The term "*Remco Site*," or "*Site*" as used in this fact sheet, refers to the *Remco Facility*, as well as areas in Willits that are contiguous and non-contiguous to the *Remco Facility*, where *Hazardous Substances* associated with *Remco* operations have come to be located, including the *Page Property*.

Remedial Investigation and Feasibility Study (RI/FS) – The step in the Superfund cleanup process that is conducted to gather sufficient information to support the selection of a site remedy that will reduce or eliminate the risks associated with contamination at a site.

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Water Board or RWQCB- California Regional Water Quality Control Board, North Coast Region, the state agency responsible for maintaining water quality in the region in which the City of Willits is located.

Willits Environmental Remediation Trust or Willits Trust – The independent entity established by order of the United States District Court for the Northern District of California. Its charge is to completely, timely, and cost-effectively conduct all investigatory and remedial work at the *Remco Site*. That work is conducted in a manner consistent with the controlling orders, the *NCP*, and applicable law. As an instrumentality of the District Court, the *Willits Trust's* primary purpose is to address and fully and appropriately resolve any alleged endangerments to human health or the environment.

Project Overview – October 2008

Introduction: The *Willits Environmental Remediation Trust* (“*Willits Trust*”) was established in 1997 by Order of the United States District Court for the Northern District of California to completely and cost-effectively conduct all investigatory and remedial work at the *Site*. To date, these activities have included work at the *Remco Facility* and off-*Facility* (non-contiguous) Properties, including the *Page Property*. Work at the main *Remco Facility* has included the preparation of a *Preliminary Endangerment Assessment (PEA)*, *Remedial Investigation Report*, *Treatability Study Report*, and *Baseline Risk Assessment Report*. In addition, the *Willits Trust* has implemented numerous *Interim Remedial Actions* and completed both a *hexavalent chromium* pilot study and an *in-situ VOC*

bioremediation Pilot Study. The *Willits Trust* is currently preparing the Feasibility Study Report for the *Remco Facility*.

Work has also been conducted at non-contiguous properties potentially impacted by historical *Remco* operations. These off-*Facility* properties have been identified as 1) former gun-barrel manufacturing activities at 475 E. San Francisco Avenue; 2) material storage at 266 Shell Lane; and, 3) waste disposal at the *Page Property*. The Work conducted at these off-*Facility* properties has included comprehensive environmental investigations. In addition, a baseline risk assessment was completed for the San Francisco Avenue and Shell Lane properties. All reports issued by the *Willits Trust*, concerning the main *Remco Facility*, as well as off-*Facility* properties, are available for public review at the *Document Depository* in Willits, California. In addition, summary information and key reports are available on our website at willitstrust.org.

Next Steps: The *Willits Trust* is currently utilizing the data collected during the implementation of the remedial investigation to conduct a *Baseline Risk Assessment (BLRA)* for the *Page Property*. The *BLRA* will assess current and possible future human health and ecological risks associated with contamination in environmental media at the *Property* due to historic *Remco* operations. The *Willits Trust* anticipates issuing the *Baseline Risk Assessment (BLRA)* Report in 2009.

The *Willits Trust* is also currently working on the evaluation of alternative remediation technologies for the final cleanup of the *Property*.

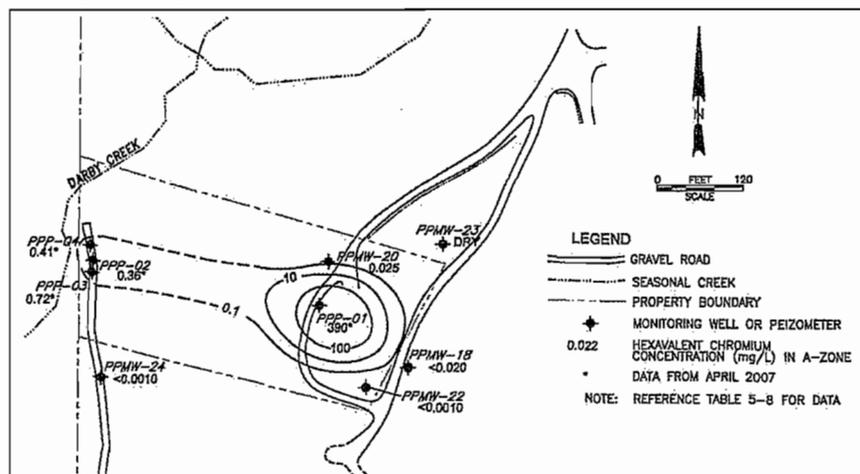


Figure 2 Hexavalent Chromium Detected in A-Zone Groundwater

Final Remedial Investigation Report
 Page Property (Old Willits Landfill)
 Willits, California

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October 2008

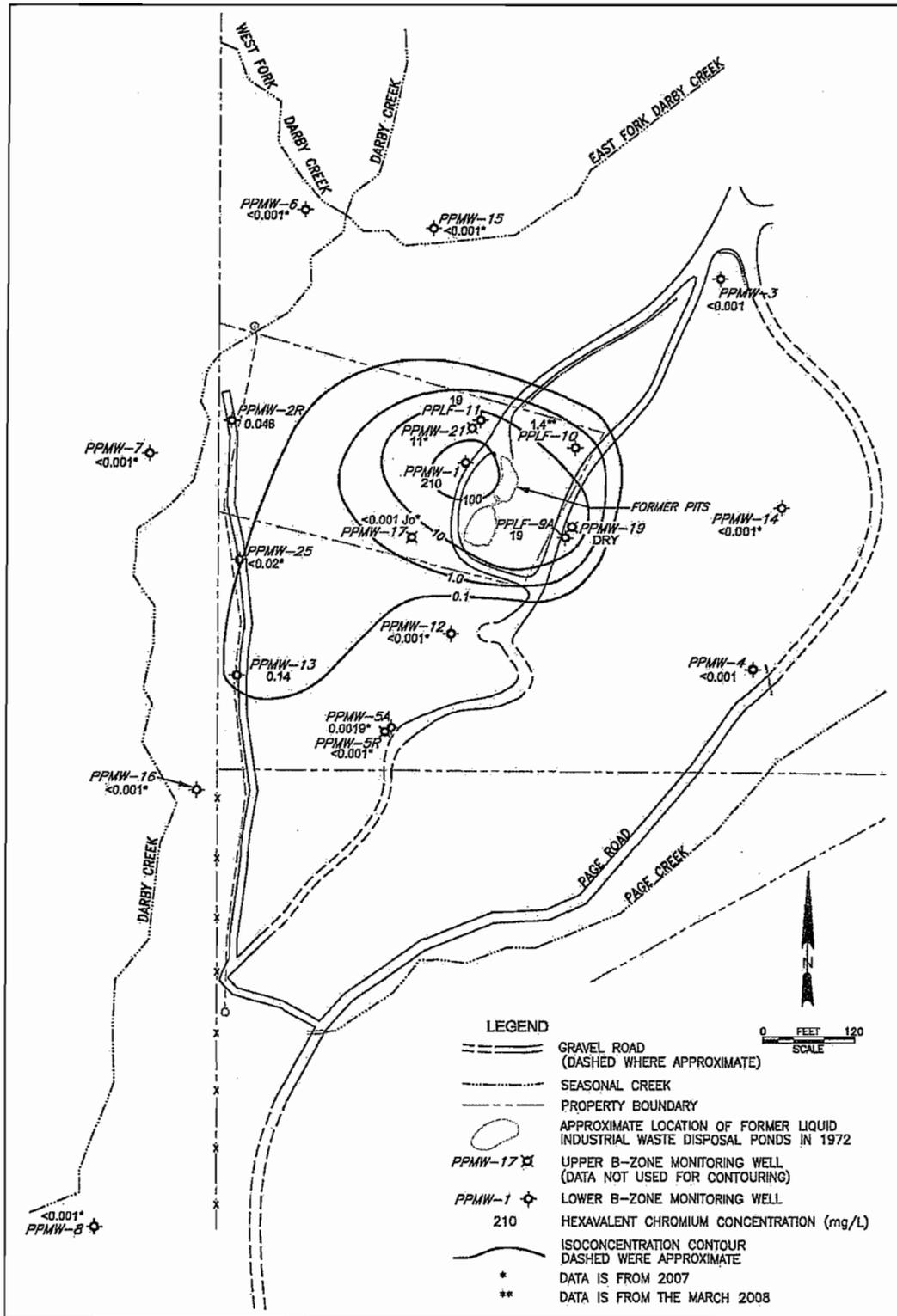


Figure 3 Hexavalent Chromium Detected in B-Zone Groundwater

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 Willits, California

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October 2008

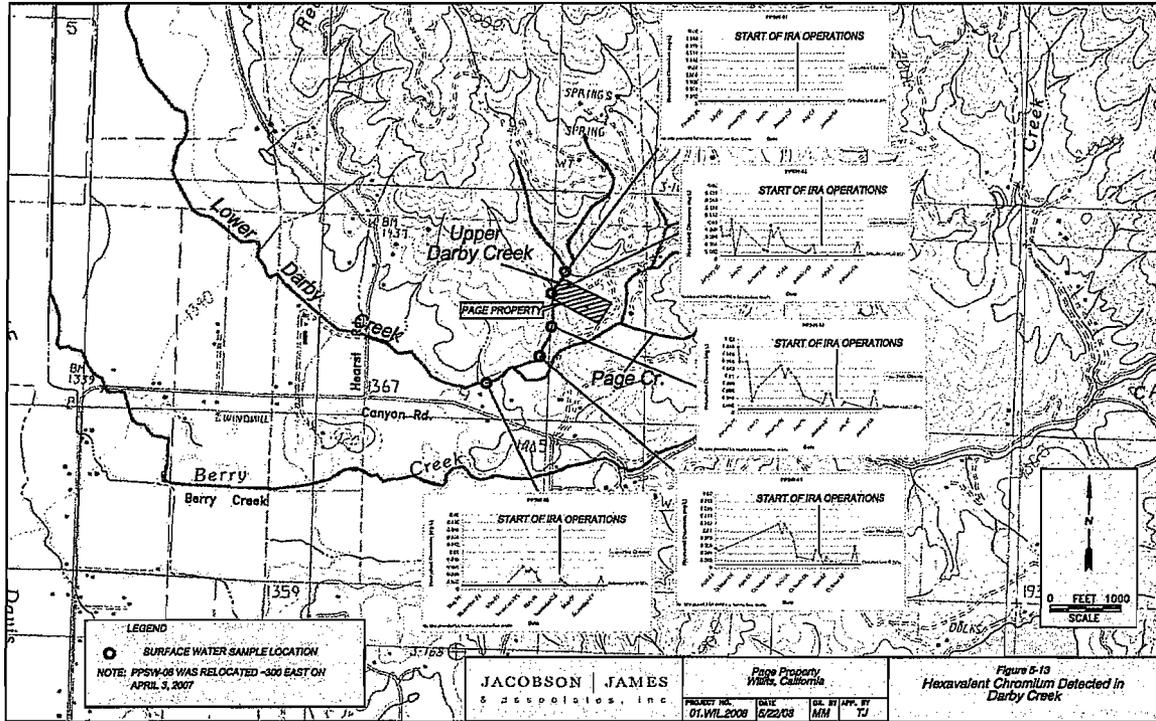


Figure 4 Summary of Hexavalent Chromium Monitoring of Darby Creek Surface Water

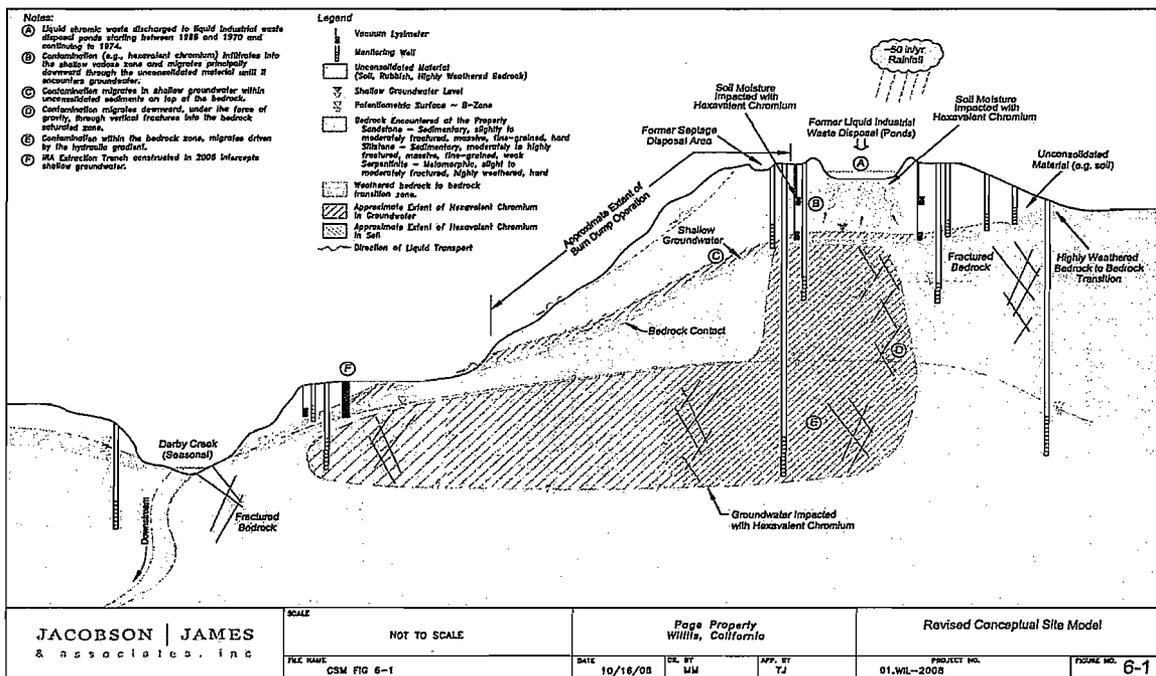


Figure 5: Conceptual Site Model

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1 Ken Berry
2 In Pro Per
3 10567 Mariposa Avenue
4 Jackson, CA 95642
5 Telephone (209) 223-1769



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**BEFORE THE STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD**

**Ken Berry, and
California Citizens for Environmental
Justice**

Petitioners

**North Coast Regional Water Quality
Control Board**

Acting Agency

PETITION NO. _____

**PETITION FOR REVIEW
OF REFUSAL TO ENFORCE
CALIFORNIA WATER CODE
AND UNITED STATES CLEAN
WATER ACT
(Water Code §13320)**

INTRODUCTION AND SUMMARY

1. Exhibit A is a copy of letter written by petitioner to the North Coast Regional Water Quality Control Board (R1WB) dated June 10, 2009.

2. The issue in this case is whether the R1WB failed to take the action required of it pursuant to the California Water Code and United States Clean Water Act when it failed to 1) act on reports that an unpermitted discharge of hexavalent chromium (Cr+6) was taking place in Darby Creek,

PETITION FOR REVIEW (REFUSAL TO ACT ON DARBY CREEK)

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1 which is a tributary of the Eel River, and 2) take action when presented with evidence of an unlawful
2 discharge in the letter included as Exhibit A..

3 **PETITION INFORMATION**

4 3. The following information is provided in accordance with the instructions on the State
5 Water Resources Control Board (SWB) website at the following Internet address on September 7,
6 2009:

7 //

8 http://www.waterboards.ca.gov/public_notices/petitions/water_quality/wqpetition_instr.shtml

9 //

10 3.1. Name, address, telephone number, and email address of Petitioners:

11 Ken Berry

12 California Citizens for Environmental Justice

13 10567 Mariposa Avenue

14 Jackson, CA 95642

15 209-223-1769

16 berry-k@sbcglobal.net

17 3.2. Action or inaction:

18 Exhibit A is a copy of a letter requesting that the R1WB take action to abate an
19 unlawful discharge of an extremely dangerous carcinogen, hexavalent chromium
20 (Cr+6), into Darby Creek, which is a tributary of the Eel River.

21 3.3. Date of action:

22 No action was taken for over 60 days since the request was mailed on June 11, 2009
23 and received no sooner than June 12, 2009.

24 3.4. Statement of reasons why inaction is inappropriate or improper:

25 Cr+6 is a carcinogen so potent that the State of California Environmental Protection
26 Agency (Cal-EPA) has not set any maximum contaminant level (MCL). According

27 **PETITION FOR REVIEW (REFUSAL TO ACT ON DARBY CREEK)**

28 **- Page 2 of 5 -**

1 to surface monitoring results attached to Exhibit A, which were presented to the
2 R1WB, Cr+6 is being discharged into Darby Creek, which is a tributary of the Eel
3 River. The Eel River is a source of drinking water and other beneficial uses whereby
4 human beings may ingest the Cr+6 being unlawfully discharged. The Eel River is
5 regulated by the R1WB pursuant to a Basin Plan that does not allow the discharge of
6 pollutants, including Cr+6.

7 3.5. How the petitioner is aggrieved:

8 Petitioners have a right to enjoy the benefits of the Eel River without fear of being
9 poisoned, or being poisoned, by unlawful discharges of disease causing substances.

10 3.6. Action requested:

11 Petitioners request that the SWB order the R1WB to take action to abate the
12 discharge of Cr+6 into Darby Creek, or take such action directly.

13 3.7. Points and Authorities supporting Petitioners' request:

14 Water Code (WC) §13320 provides a procedure by which a citizen may appeal to the
15 State Board the failure of a Regional Board to act under certain statutes. WC §13320
16 includes Chapter 5.5 of Division 7, commencing with WC §13370, in those statutes.
17 Chapter 5.5 implements the United States Clean Water Act (CWA) into California
18 code. WC §13376 requires that any person discharging of pollutants to the navigable
19 waters of the United States within the State of California file a report of the discharge
20 pursuant to WC §13260. No report of waste discharge has been filed for the
21 pollution documented in Exhibit A, nor has the discharge been permitted. Therefore
22 the discharge is in violation of the WC and the CWA, and the R1WB is deficient for
23 failing to act to abate the discharge. The WC authorizes the SWB to act in lieu of
24 action by a Regional Board.

25 3.8. Statement that notice has been provided to Regional Water Board and discharger:

26 Complete copies of this Petition have been mailed to the following persons and/or
27

1 organizations:

2 //

3 North Coast Regional Water Quality Control Board (Agency)
4 5550 Skylane Boulevard, Suite A
5 Santa Rosa, CA 95403

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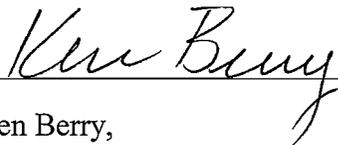
7 Willits Environmental Remediation Trust (Responsible Party)
8 6016 Princeton Reach Way
9 Granite Bay, CA 95746

10 //

11 3.9. Statement that issues were first raised with the Regional Water Board:

12 Exhibit A is a copy of the letter that was deposited in the United States Mail on June
13 11, 2009.

14 Dated: September 8, 2009

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18 _____
19 /s/ Ken Berry,

20 California Citizens for Environmental Justice
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Ken Berry 10567 Mariposa Avenue, Jackson CA 95642 209-223-1769 berry-k@sbcglobal.net

June 10, 2009

**North Coast Regional Water Quality Control Board
5550 Skyline Boulevard
Santa Rosa, CA 95403-1072**

Re: Page Property: Violation of United States Clean Water Act

This letter is a formal request pursuant to Water Code (WC) §13320 for the North Coast Regional Water Quality Control Board (R1WB) to enforce provisions of the United States Clean Water Act (CWA). In particular, WC §13320 provides a procedure for "any aggrieved person" to petition the State Water Resources Control Board (SWB) for relief from any action or failure to take action by a Regional Board.

This letter is submitted on behalf of the Willits Citizens for Environmental Justice (WCEJ) and myself. I am a citizen of the United States. I sometimes utilize the drainage basin of the Eel River, which includes Darby Creek in Little Lake Valley near the City of Willits, for recreational purposes. WCEJ has members who are also citizens of the United States affected by the water quality in Darby Creek and the Eel River, and who reside near the Page Property.

WC §13320 applies to actions or failures to act under several statutes, including WC §13260-13274, which govern the issuance of Waste Discharge Requirements (WDR), and WC §13370-13389, which implement the CWA for enforcement by the SWB and Regional Boards, including R1WB.

The February, April, and May 2009 Darby Creek Surface Water Sampling Results were transmitted to the R1WB with a cover letter dated May 29, 2008 and written by Jacobson - James & Associates on behalf of the Willits Environmental Remediation Trust (Trust)¹. According to that report, hexavalent chromium was detected at three sampling points, PPSW-03, PPSW-05, and PSW-06R. A copy of Table 1 from the May 29, 2009 report is attached as Exhibit A.

There is no MCL (maximum contaminant level) for hexavalent chromium. Therefore the R1WB has an obligation to take the necessary action to abate the discharge.

Yours Truly,

/s/ _____
Ken Berry,
Willits Citizens for Environmental Justice

¹ Reports are submitted each month and a table summarizes the results for the previous 12 month period. The results reported herein come from the table for the May 29, 2009 report. A copy of this table is attached as Exhibit A.

TABLE 1
SUMMARY OF SURFACE WATER ANALYTICAL RESULTS

Page Property
 Willits, California

Sample Location	Sample Date	Hexavalent Chromium (EPA 7199) (mg/L)
PPSW-01	5/6/2008	<0.0010
	1/5/2009	<0.0010
	2/3/2009	<0.0010
	3/2/2009	<0.0010
	4/1/2009	<0.0010
	5/4/2009	<0.0010
PPSW-02	5/6/2008	<0.0010
	1/5/2009	<0.0010
	2/3/2009	<0.0010
	3/2/2009	<0.0010
	4/1/2009	<0.0010
	5/4/2009	<0.0010
PPSW-03	5/6/2008	0.0032
	1/5/2009	<0.0010
	2/3/2009	0.0019
	3/2/2009	<0.0010
	4/1/2009	0.0019
	5/4/2009	0.0019
PPSW-05	5/6/2008	0.0024
	1/5/2009	0.0010
	2/3/2009	0.0016
	3/2/2009	<0.0010
	4/1/2009	0.0017
	5/4/2009	0.0018
PPSW-06R	5/6/2008	<0.0010
	1/5/2009	<0.0010
	2/3/2009	0.0016
	3/2/2009	<0.0010
	4/1/2009	0.0011
	5/4/2009	<0.0010

Notes:

mg/L

Milligrams per liter.