

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
COLORADO RIVER BASIN REGION

CLEANUP AND ABATEMENT ORDER NO. 93-059  
AGAINST  
URBAN DEVELOPMENT CORPORATION, A CALIFORNIA CORPORATION  
CITY OF INDIO, A MUNICIPAL CORPORATION  
Indio - Riverside County

The Executive Officer of the California Regional Water Quality Control Board, Colorado River Basin Region, finds that:

1. The property located at 44-100 Monroe Street, Indio, California (the site) was a gasoline station until 1988. This service station was demolished by the City of Indio in order to facilitate the construction of a highway overpass.
2. Urban Development Corporation was the owner and operator of the Flagg Mobil Service Station located at 44-100 Monroe Street, Indio, California. Therefore, Urban Development Corporation is a responsible party for this discharge.
3. The City of Indio was entitled to immediate possession of the site described in Finding No.1 on May 11, 1988, pursuant to Superior Court Order No. 53601 - "Order for Immediate Possession". The City of Indio was authorized to take possession 90 days after service of Order No. 53601. The City of Indio took possession of this site. Therefore, the City of Indio is a responsible party for the discharge.
4. On December 6, 1991, the Colorado River Basin Regional Water Quality Control Board issued Cleanup and Abatement Order No. 92-083 to Urban Development Corporation and the City of Indio to cleanup and abate the property at 82-031 Indio Boulevard, Indio, California.
5. The City of Indio filed a petition for a writ of mandate with the Superior Court of the State of California, County of Riverside, requesting that Cleanup and Abatement Order No. 92-083 be amended to provide that the City of Indio's liability is secondarily liable to other responsible parties.
6. On April 14, 1993, by order of Superior Court of the State of California for the County of Riverside: The City of Indio be named secondarily responsible for investigation and cleanup at the former service station located at 44-100 Monroe Street, Indio, California. It has been ordered that the liability of the City of Indio for cleanup and abatement of the site shall be secondary to the liability of Urban Development Corporation in the event that Urban Development Corporation fails to comply with Cleanup and Abatement Order No. 93-059.
7. On January 29, 1989, the City of Indio removed the tanks and contaminated soil from the site.
8. On March 14, 1989, the Regional Board received an Underground Storage Tank Unauthorized Release Report filed by Indio City Fire Department. This report indicted that gasoline had leaked from the underground storage tanks and associated piping contaminating the soil and ground water.
9. Laboratory results accompanying this unauthorized release report, indicated elevated levels of benzene, toluene, ethyl benzene and total petroleum hydrocarbons from samples taken from four feet beneath the tank pit.

*Replaced by  
94-092*

10. Section 13267 of the California Water Code states, in part, that:

"(b), the regional board may require that any person discharging or proposing to discharge waste within its region, or any citizen of domiciliary, or political agency or entity of this state discharging or proposing to discharge waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, those technical or monitoring program reports as the board may specify..."

11. By letter dated April 3, 1989, the City of Indio was requested to conduct a remedial investigation of the contamination, and submit a technical report to the Regional Board by April 28, 1989.
12. The Regional Board received a technical report entitled "Report of Soil Contamination Remediation", prepared for the City of Indio by Schaefer Dixon Associates, Inc., and dated May 15, 1989. On June 9, 1989, the Regional Board received a technical report entitled "Addendum to the Report of Soil Contamination Remediation", prepared for the City of Indio by Schaefer Dixon Associates, Inc.
13. By letter dated June 22, 1989, Urban Development Corporation was requested to conduct a remedial investigation of the contamination and submit a technical report to the Regional Board by July 31, 1989.
14. By letter dated July 27, 1989, the Urban Development Corporation was notified by Indio City Fire Department that they had failed to test and obtain operating permits for underground fuel storage tanks located at the site.
15. On August 4, 1989, the Regional Board received a letter from Fell, Meyer and Marklin, counsel for Urban Development Corporation, requesting a six-week extension to submit the results of the subsurface investigation required by the Regional Board in a letter dated May 17, 1989.
16. By letter dated March 1, 1990, Remediation Service Int. (RSI), consultants for Urban Development Corporation, requested a time extension until April 1990 to submit the technical report requested by the Regional Board in May, 1989.
17. By letter dated March 13, 1990, the Regional Board granted a time extension to May 1, 1990, for the submittal of the results of the subsurface investigation to be prepared by Urban Development Corporation.
18. By letter dated April 6, 1990, the Regional Board granted Urban Development Corporation an additional time extension until July 1, 1990, for the submittal of the subsurface investigation.
19. On May 3, 1990, the Regional Board received a work plan entitled "Work Plan for Mitigation of Gasoline and Diesel Contaminated Soil, Mobil and USA Gasoline Service Stations", prepared for the City of Indio by Schaefer Dixon Associates, Inc., and dated April 18, 1990.
20. On August 16, 1990, the Regional Board received a letter dated August 14, 199, prepared by RSI, representing Urban Development Corporation, advising of a time delay in submitting a work plan until September 20, 1990.
21. On October 1, 1990, the Regional Board received a work plan entitled "Site Assessment Plan for the Former Flagg Mobil Station", prepared by RSI, and dated September 7, 1990.
22. On October 16, 1990, the Regional Board received a technical report describing the methods for well development and sampling at the site, prepared by RSI, and dated October 15, 1990.

23. The Water Quality Control Plan for the Colorado River Basin Region of California was adopted on May 15, 1991, and designated the beneficial uses of ground and surface water in this Region.
24. The beneficial uses of ground waters in the Coachella Hydrologic Unit are:
  - a. Municipal supply (MUN)
  - b. Industrial supply (IND)
  - c. Agricultural supply (AGR)
25. Contamination of the ground water with elevated levels of benzene, toluene, ethyl benzene, and total petroleum hydrocarbons will significantly impair the beneficial uses of the ground water.
26. Section 13304 of the California Water Code states, in part, that:

"Any person...who has caused or permitted...any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the State and creates, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board cleanup such waste or abate the effects thereof, or in the case of threatened pollution or nuisance, take other necessary remedial action."
27. Urban Development Corporation and the City of Indio have caused or permitted the discharge of waste or wastewater into the waters of the State and have created a condition of pollution.
28. This enforcement action is exempt from the California Environmental Quality Act pursuant to Section 15321, Chapter 3, Title 14, of the California Code of Regulations.

IT IS HEREBY ORDERED, that pursuant to Sections 13304 and 13267 of the California Water Code, Urban Development Corporation, their agents or assigns, shall prepare technical report and shall cleanup and abate the effects of the discharge of gasoline by complying with the following:

1. The following shall be submitted to the Regional Board by the due dates indicated:
  - A. January 2, 1994 - Submit a work plan to the Regional Board's Executive Officer for review and approval. The work plan will include, but not be limited to, a description of the activities by which tasks 1 through 3 as outlined below, will be completed. If site remediation is currently in progress, the work plan shall summarize completed work at the site.
    1. Fully delineate the vertical and lateral extent of contamination of the soil and ground water at the subject site.
    2. Characterize the site hydrology such that an adequate assessment of contamination migration pathways can be made.
    3. Evaluate actual or potential off-site migration of contaminants and methods to mitigate or prevent such an occurrence.
  - B. January 15, 1994 - Submit a progress report to the Regional Board's Executive Officer which details the progress being made toward the goals outlined in the work plan, including progress towards obtaining proper permits for the work.
  - C. February 15, 1994 - Submit another progress report to the Regional Board's Executive Officer as stated above in B.

- D. March 30, 1994 - Submit a technical report to the Regional Board's Executive Officer containing the results of work requested above in A.
- E. May 30, 1994 - Submit a proposal to remediate all soil and ground water contamination at the subject site which resulted from the leaks described in this Order to levels deemed acceptable to the Regional Board's Executive Officer.
- F. August 1, 1994 - Implement the cleanup plan to remediate all soil and ground water contamination at the subject site.

All technical reports submitted to the Regional Board for consideration shall be prepared by a professional who is registered as a civil engineer, or certified as an engineering geologist in the State of California.

Failure to comply with any provision of this Order may subject you to further enforcement action including, but not limited to, assessment of civil liability pursuant to Sections 13323, 13268 and 13350 of Division 7, Article 25, of the California Water Code, and referral for injunctive relief and civil or criminal liability.

If the City of Indio is notified by the Regional Board's Executive Officer that Urban Development Corporation is not in compliance with any portion of this Order, then the City of Indio shall be responsible for that portion of the Order within 60 days of receipt of notice from the Regional Board's Executive Officer.

This Cleanup and Abatement Order No. 93-059 supersedes Cleanup and Abatement Order No 92-083 (Revision).

Philip A Gruenberg  
Executive Officer

6-9-93  
Date