

California Regional Water Quality Control Board
North Coast Region

Cleanup and Abatement Order No. R1-2005-0109

For

Frank Stone
and
Linda Stone

Regarding
29331 North Highway 101, Willits
and
29351 North Highway 101, Willits

Mendocino County

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

1. Frank and Linda Stone (hereinafter Dischargers) own property in Reeves Canyon along Highway 101 north of Willits, California (hereinafter Site). The Site is located at 29331 and 29351 North Highway 101 Willits, California (APN 037-140-09, -13, and -14) and contains fourteen dwelling units. Intermittent streams run through the Site that are tributary to Reeves Canyon Creek which is a tributary to Outlet Creek and the Eel River. A map of the site is included as Attachment A.
2. The site is outside of a municipal service district and therefore septic disposal and domestic water supply must be provided by individual or combined systems at the site. Domestic water supply is provided from springs located on property owned by the Dischargers west of Highway 101, identified as 29240 North Highway 101 (APN 037-140-15). County records document two septic systems at the site, which receive waste from eight of the fourteen residences.
3. On July 14, 2005, Regional Water Board staff (hereinafter Staff) conducted an inspection of the Site in conjunction with Mendocino County Environmental Health Department staff. The inspection was conducted in response to a complaint from one of the site residents. Staff identified four areas of surfacing wastewater effluent, including:
 - a. The meadow east of cabin #5 at 29331 N. Highway 101;
 - b. A few feet east of Reeves Canyon Creek north of 29351 N. Highway 101 unit p5, near the northern property boundary;
 - c. East of 29351 N. Highway 101 unit p5, down slope of the white single wide mobile home; and
 - d. West of the meadow below the green mobile home.

4. On August 25, 2005, during a follow-up inspection, Staff observed two areas (identified as locations a and b in Finding 3 above) where soil had been disturbed. The Dischargers indicated that repairs had been conducted in these areas to cease surfacing of wastewater effluent.
5. On August 25, 2005, during a site inspection Staff identified two areas of surfacing wastewater effluent, including:
 - a. East of 29351 N. Highway 101 unit p5, down slope of the white single wide mobile home; and
 - b. East of mobile home P-7.
6. Current site sewage disposal methods have caused and may continue to cause the surfacing of sewage and potential discharges to Reeves Canyon Creek, threaten to adversely impact water quality and beneficial uses and constitute violation of provisions of the California Water Code. In addition, these conditions constitute a threat to public health.
7. The Site is located at the bottom of a canyon, and has onsite surface waters. Depth to groundwater at the Site is undetermined, but likely to be shallow. Existing sewage disposal areas are in close proximity to each other and constitute a threatened pollution of both surface and groundwater.
8. The Mendocino County Environmental Health Department sent three separate Orders to Cease Discharge of Sewage to the Surface on May 17, July 18, and August 10, 2005 respectively (Attachment B). The County Orders require the Dischargers to cease surface discharges of sewage and prepare a comprehensive analysis of sewage disposal on parcels APN 037-140-09, -13, -14, and -15.
9. The intermittent streams are tributary Reeves Canyon Creek, which is tributary to Outlet Creek and the Eel River. Existing and potential beneficial uses of surface water in the Outlet Creek Hydrologic Unit, as designated in the Water Quality Control Plan for the North Coast Region (Basin Plan), that include:
 - a. agricultural supply
 - b. industrial service supply
 - c. industrial process supply
 - d. groundwater recharge
 - e. navigation
 - f. hydropower generation
 - g. water contact recreation
 - h. noncontact water recreation
 - i. commercial and sport fishing
 - j. warm freshwater habitat
 - k. cold freshwater habitat
 - l. wildlife habitat
 - m. preservation of rare, threatened or endangered species
 - n. migration of aquatic organisms
 - o. spawning, reproduction, and/or early development
 - p. aquaculture

10. Existing and potential beneficial uses of groundwater as designated in the Water Quality Control Plan for the North Coast Region (Basin Plan), that include:
- a. domestic water supply
 - b. agricultural water supply
 - c. industrial water supply
 - d. industrial process supply
11. The Basin Plan contains specific standards and provisions for maintaining high quality waters of the state that provide for the beneficial uses listed above. The Implementation Plan for Onsite Waste Treatment and Disposal Practices included in the Basin Plan states,
“On-site waste treatment and disposal systems shall be located, designed, constructed, and operated in a manner to ensure that effluent does not surface at any time, and that percolation of effluent will not adversely affect beneficial uses of waters of the State.”
12. The following sections of the Porter-Cologne Water Quality Control Act authorize the Regional Water Board to require persons to remediate unpermitted discharges of waste:
- Section 13267(a) - *“A regional board, in establishing or reviewing any water quality control plan or waste discharge requirements, or in connection with any action relating to any plan or requirement or authorized by this division, may investigate the quality of any waters of the state within its region.”*
 - Section 13267(b) - *“In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or proposes to discharge waste within its region...that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires.”*
 - Section 13267(c) - *“In conducting an investigation pursuant to subdivision (a), the regional board may inspect the facilities of any person to ascertain whether the purposes of this division are being met and waste discharge requirements are being complied with. The inspection shall be made with the consent of the owner or possessor of the facilities or, if the consent is withheld, with a warrant duly issued pursuant to the procedure set forth in Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure. However, in the event of an emergency affecting the public health or safety, an inspection may be performed without consent or the issuance of a warrant.”*
 - Section 13304(a) - *“Any person who has discharged or discharges waste into the waters of this state in violation of any waste discharge requirement or other order or prohibition issued by a regional board or the state board, or who has caused or permitted, 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 and creates, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board, clean up the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including, but not limited to, overseeing cleanup and abatement efforts.”

10. As described above, the Dischargers own and operate fourteen dwelling units, which utilize onsite septic disposal. Current disposal practices and their cumulative impacts have caused and threaten to cause discharges of sewage waste to the ground surface where it may enter into an intermittent tributary to Reeves Creek. In addition these conditions constitute a condition of nuisance, wherein the improper disposal of waste is injurious to health and affects a number of persons living in the vicinity.
11. The surfacing of wastewater effluent to surface waters may result in violation of water quality standards contained in the Basin Plan. The discharge of effluent where it may enter waters of the state is therefore subject to cleanup and abatement under California Water Code Section (CWC) 13304.
12. A facility master plan required by this Order is necessary to ensure that the future threat to water quality created by the discharges described above are properly abated and controlled.
13. This is an enforcement action by a regulatory agency, being taken for the protection of the environment, and is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code, Section 21000 et seq.) in accordance with California Code of Regulations (CCRs), Title 14, Sections 15308 and 15321.
14. Failure to comply with the terms of this Order may result in further 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 13268, 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) per gallon of waste discharged.
15. 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 CWC Section 13320 and Title 23, CCRs, 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 Executive Officer 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 Executive Officer is sought, filing a petition with the State Water Board within the 30-day period is necessary to preserve the petitioner's legal rights. If you choose to request reconsideration of this Order or file a petition with the State Water Board, be advised that you must comply with the Order while your request for reconsideration and/or petition is being considered.

THEREFORE, IT IS HEREBY ORDERED that, pursuant to CWC Sections 13267(b) and 13304:

1. The Dischargers shall conduct all work under the direction of an individual(s) who by virtue of their education, training, and experience, are qualified to examine and assess soil, geologic, and hydrologic properties as related to subsurface effluent disposal. Credentials required of such individuals shall be specified by local regulatory agencies and shall include, as a minimum, education, training, and experience as geologist, soil scientist, registered civil engineer, or registered environmental health specialist. All necessary permits shall be obtained.
2. Discharges of domestic wastewater to the ground surface shall be abated forthwith.
3. By **March 3, 2006**, the Dischargers shall submit a written summary report of historic site disposal activities associated with each dwelling unit. Locations of those activities shall be depicted on an attached site map drawn to scale. The submittal shall further include the age and composition of all disposal appurtenances at this site.
4. By **May 20, 2006**, the Dischargers shall submit an acceptable Site Master Plan for continued and future septic disposal to occur in conformance with Standards and Provisions of the Basin Plan. The Master Plan shall be accompanied by an application and appropriate fees for a Waste Discharge Requirement permit from the Regional Water Board.
5. By **August 1, 2006**, the Dischargers shall begin any necessary construction and/or repairs of the onsite waste disposal system(s) permitted under Waste Discharge Requirements issued by the Regional Water Board. Construction shall be complete no later than **September 30, 2006**.

If, for any reason, the Dischargers are unable to perform any activity or submit any documentation in compliance with the schedule pursuant to this Order, the Dischargers may request, in writing, an extension of the time as specified. The written extension request shall include justification for the delay and shall be received by the Regional

Water Board not less than 15 calendar days prior to the deadline sought to be extended. An extension may be granted for good cause, in which case this Order will be accordingly revised.

This CAO 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 CAO may be revised by the Executive Officer as additional information becomes available.

Ordered by _____

Catherine E. Kuhlman
Executive Officer

November 9, 2005