

California Regional Water Quality Control Board
North Coast Region

Cleanup and Abatement Order No. R1-2006-0050

For

Erica Peters
and
Marlene Judy Peters

Regarding
E-Z Livin' Mobile Home Park
19925 Highway 101, Willits

Mendocino County

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

1. Erica Peters owns E-Z Livin' Mobile Home Park near Haehl Creek along Highway 101 at the south end of Willits, California (hereinafter Site). The Site is located at 19925 Highway 101 Willits, California (APN 104-010-03 and 104-010-04) and contains approximately twenty-eight dwelling units.
2. Sewage from the E-Z Livin Mobile Home Park is collected in a large septic tank located within the park. Septic tank effluent is pumped across Haehl Creek to leachfields several hundred feet northwest of the park on Mendocino County Assessors Parcel Number 104-010-16, which is held by Robert Peters (deceased) and Marlene Judy Peters. Erica Peters and Marlene Judy Peters are hereinafter referred to as the Dischargers. Haehl Creek is a tributary to Outlet Creek and the Eel River. An aerial photo of the site is included as Attachment A.
3. On June 25, 1992, the Regional Water Board adopted Waste Discharge Requirements Order No. 92-76 (Order No. 92-76) for discharges of treated domestic wastewater from this site. Order No. 92-76 includes discharge prohibitions, a compliance schedule, solids disposal requirements, and compliance provisions. The Dischargers have accumulated multiple violations of the terms in Order No. 92-76 and threaten to continue to violate the terms of that Order.

Terms in Order No. 92-76 that have been violated and that threaten to continue to be violated unless cleaned up and abated are:

A. DISCHARGE PROHIBITIONS

3. Creation of a pollution, contamination, or nuisance as defined by Section 13050 of the California Water Code (CWC) is prohibited. [Health and Safety Code, Section 5411]
4. The discharge of domestic waste, treated or untreated, to surface waters is prohibited.

5. The discharge of waste to the ground surface is prohibited.

D. PROVISIONS

3. Operation and Maintenance

The Discharger must maintain in good working order and operate as efficiently as possible any facility or control system installed by the discharger to achieve compliance with waste discharge requirements.

4. Change in Discharger

The Discharger must promptly report to the Board any material change in the character, location, or volume of the discharge.

7. Monitoring

The discharger must comply with the Contingency Planning and Notification Requirements Order No 74-151 and the Monitoring and Reporting Program No. 92-76 and any modifications to these documents as specified by the Executive Officer...

9. Noncompliance

In the event the Discharger is unable to comply with any of the conditions of this Order (Order No. 92-76) due to:

- a. Breakdown of waste treatment equipment;
- b. Accident caused by human error or negligence; or
- c. Other causes such as acts of nature;

The Discharger must notify the Executive Officer by telephone as soon as possible as he or his agents have knowledge of the incident and confirm this notification in writing within two weeks of the telephone notification. The written notification shall include pertinent information explaining reasons for the noncompliance and shall indicate the steps taken to correct the problem and dates thereof, and the steps being taken to prevent the problem from recurring.

4. On December 3, 2004, at the Discharger's request, Regional Water Board staff transmitted a copy of Order No. 92-76 and Monitoring and Reporting Program Order No. 92-76 to the Dischargers' attorney. The December 3 transmittal noted that monthly monitoring and reporting is required for this site. No monthly monitoring reports have been received since November 2003.
5. During inspections conducted on March 3, 2005, December 13, 2005, and April 4, 2006 Mendocino County Health Department staff documented surfacing effluent from the leachfield areas discharging into Haehl Creek. The Dischargers did not notify the Executive Officer either by telephone or in writing on any of these occasions.
6. Current site sewage disposal methods have caused and may continue to cause the surfacing of undisinfected sewage and potential discharges to Haehl Creek, threaten to adversely

impact water quality and beneficial uses and constitute violation of provisions of the California Water Code and the federal Clean Water Act. In addition, these conditions constitute a threat to public health.

7. The Mendocino County Environmental Health Department sent three separate Orders to the Dischargers requiring repair and maintenance of the septic system. The County Orders were sent December 15, 2005, January 18, 2006, and February 8, 2006 respectively (Attachment B) and require among other tasks, that the Dischargers have the septic tank and leachfield system evaluated and repaired.
8. Haehl Creek 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 approximately twenty-eight 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 Haehl 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. The facility evaluation, implementation of repairs, development of an operations and maintenance plan required by this Order are 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. The Dischargers shall comply with all of the terms of Order 92-76 without delay. Immediate attention shall be given to discharges of domestic wastewater to the ground surface and surface waters, which shall be abated forthwith.
3. By **May 19, 2006**, the Dischargers shall submit a written summary report of a comprehensive system evaluation. The evaluation shall include the collection system

components, the septic tank, pumps, valves, distribution boxes, leach lines, hydrosplitter, intercept drain, and other appurtenances as appropriate. Locations of each component shall be depicted on an attached site map drawn to scale.

4. By **June 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 for renewal of the 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 Cleanup and Abatement Order 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 Order may be revised by the Executive Officer, in writing, as additional information becomes available.

Ordered by _____

Catherine E. Kuhlman
Executive Officer

April 20, 2006