

California Regional Water Quality Control Board
North Coast Region

CLEANUP AND ABATEMENT ORDER NO. R1-2005-0099

for

Boyett Petroleum
Carl Boyett
Carole Boyett

171 Santa Rosa Avenue
Santa Rosa

Sonoma County

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

1. Carl and Carole Boyett own property at 171 Santa Rosa Avenue (hereinafter Site). The Site was the location of a retail gasoline station beginning in 1954 with Boyett Petroleum operation beginning in 1976. Carl Boyett, Carole Boyett and Boyett Petroleum are hereinafter referred to as the Dischargers.
2. Enforcement action began on January 22, 1985, when Cleanup and Abatement Order (CAO) No. 85-86 was issued to the Dischargers following the discovery of gasoline seeping into Santa Rosa Creek from cracks in the concrete lined channel of Santa Rosa Creek immediately north of the Site. The case file is extensive and contains a lengthy record.
3. Enforcement actions taken by the Regional Water Board since 1985 include:
 - CAO No. 97-120 issued by the Executive Officer in October 1997.
 - CAO No. 98-75 issued by the Executive Officer in July 1998.
 - Time Schedule Order No. 98-114 adopted by the Regional Water Board in October 1998 due to non-compliance with CAO No. 98-75.
 - Administrative Civil Liability Complaint (ACLC) No. R1-2003-23 issued by the Executive Officer in January 2003 for violations of the Time Schedule Order. The ACLC proposed to assess \$100,000 of civil liability and suspend additional civil liability contingent on compliance with a time schedule.
 - Administrative Civil Liability Order (ACLO) No. R1-2003-0075 adopted by the Regional Water Board in June 2003 and remanded by the State Water Resources Control Board on May 20, 2004.
4. On February 27, 2003, the Draft 2003 Corrective Action Plan was submitted. The document contained a proposal to:
 - Abate the discharge to Santa Rosa Creek by the installation of a groundwater cut-off wall and a groundwater extraction system.
 - Remove remaining sources including the removal of impacted soil and groundwater on site and in Santa Rosa Creek.
 - Install an ozone sparge system to restore the beneficial uses of groundwater.
5. The Dischargers' proposed schedule included the coordination of work with the City of Santa Rosa, Prince Memorial Greenway Project (PMGP) 2004 construction schedule. The PMGP is the Santa Rosa Creek restoration and linear park construction project. Since the proposed schedule was not compatible with the compliance schedule proposed by ACLC No. R1-2003-23, the Dischargers also proposed the operation of an interim groundwater extraction system to achieve compliance and allow for the coordination of final work with the PMGP.

6. Since that time, work that has been completed includes:
 - Interim groundwater extraction beginning in February 2004.
 - Abandonment of the on-site groundwater monitoring wells to allow for soil removal.
 - Removal of contaminants from the Site and in Santa Rosa Creek beginning in May 2004 including significantly impacted soil, separate phase hydrocarbons on groundwater and groundwater impacted by dissolved phase gasoline.
7. Work remaining to be completed includes:
 - Reinstallation of the on site groundwater monitoring well network.
 - Completion of the final groundwater extraction system.
 - Installation of the ozone (or alternate) groundwater treatment system.
 - Completion of verification groundwater monitoring to evaluate the effectiveness of the corrective action activities.
 - The submittal of reports for work already completed including the removal of impacted soil from on site and in Santa Rosa Creek, and the installation of the ground water cut-off wall.
8. The Dischargers have caused or permitted, cause or permit, or threaten to cause or permit 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. Continuing discharges are in violation of the Porter-Cologne Water Quality Control Act and provisions of the Water Quality Control Plan for the North Coast Region (Basin Plan).
9. Existing and potential beneficial uses of areal groundwater include domestic, irrigation, and industrial supply. Beneficial uses of Santa Rosa Creek, a tributary to the Laguna de Santa Rosa and the Russian River are:
 - a. municipal and domestic supply
 - b. agricultural supply
 - c. industrial process supply
 - d. groundwater recharge
 - e. navigation
 - f. water contact recreation
 - g. non-contact water recreation
 - h. commercial and sport fishing
 - i. warm freshwater habitat
 - j. cold freshwater habitat
 - k. wildlife habitat
 - l. migration of aquatic organisms
 - m. spawning, reproduction, and/or early development
 - n. fresh water replenishment
 - o. estuarine habitat
 - p. rare, threatened or endangered species.
10. The California Water Code, and regulations and policies developed thereunder require cleanup and abatement of discharges and threatened discharges of waste to the extent feasible. Cleanup and abatement activities are to provide attainment of background levels of water quality or the highest water quality that is reasonable if background levels of water quality cannot be restored. Alternative cleanup levels less stringent than background concentration shall be permitted only if the discharger demonstrates that: it is not feasible to attain background levels; the alternative cleanup levels are consistent with the maximum benefit to the people of the State; alternative cleanup levels will not unreasonably affect present and anticipated beneficial uses of such water; and they will not result in water quality lower than prescribed in the Basin Plan and Policies adopted by the State and Regional Water Boards.

11. Water quality objectives in the Basin Plan are adopted to ensure protection of the beneficial uses of water. The most stringent water quality objectives for protection of all beneficial uses are selected as the protective water quality criteria. Alternative cleanup and abatement actions must evaluate the feasibility of, at a minimum: (1) cleanup to background levels, (2) cleanup to levels attainable through application of best practicable technology, and (3) cleanup to protective water quality criteria levels. Exhibit 1, attached to and made part of this Order, sets out the water quality objectives for groundwater.
12. Discharge prohibitions contained in the Basin Plan apply to this site. State Water Resources Control Board Resolution 68-16 applies to this site. State Water Resources Control Board Resolution 92-49 applies to this site and sets out the "Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under Section 13304 of the California Water Code."
13. The Regional Water Board will ensure adequate public participation at key steps in the remedial action process, and shall ensure that concurrence with a remedy for cleanup and abatement of the discharges at the site shall comply with the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA").
14. The issuance of this Cleanup and Abatement Order is an enforcement action being taken for the protection of the environment and, therefore, is exempt from the provisions of CEQA in accordance with Section 15308 and 15321, Chapter 3, Title 14 of the California Code of Regulations.
15. Pursuant to CWC Section 13304, the Regional Water Board is entitled to, and may seek reimbursement for, all reasonable costs actually incurred by the Regional Water Board to investigate unauthorized discharges of waste and to oversee cleanup of such waste, abatement of the effects thereof, or other remedial action, required by this Order
16. Any person affected by this action of the Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with Section 13320 of the California Water Code and Title 23, California Code of Regulations, Section 2050. The petition must be received by the State Water Board 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 Regional Water Board to reconsider this Order. Such request should be made within 30 days of the date of this Order. Note that even if reconsideration by the Regional Water Board 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 appeal the Order, be advised that you must comply with the Order while your appeal is being considered.
17. 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 Site consistent with California Water Code. This CAO may be revised by the Executive Officer, as additional information becomes available.
18. Failure to comply with the terms of this Order may result in 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.

THEREFORE, IT IS HEREBY ORDERED that Cleanup and Abatement Order No. 98-75 is hereby rescinded in part. CAO No. 98-75 remains in effect for the purposes of enforcing past and ongoing

violations of that Order. This Order replaces CAO No. 98-75 for the purpose of prospectively directing cleanup and abatement activities on the Site. The partial rescission of CAO No. 98-75 does not affect any other Orders, which remain fully in effect.

IT IS FURTHER ORDERED THAT, pursuant to California Water Code Sections 13267(b) and 13304, the Dischargers shall cleanup and abate the discharge and threatened discharges and shall comply with the following provisions of this Order:

General Provisions

- A. Conduct all investigative work under the direction of a California registered civil engineer or geologist experienced in soil, groundwater and surface water assessment and remediation.
- B. Conduct all engineering work including any treatment system design and installation under the direction of a California professional civil engineer.

Groundwater Monitoring Well Network

- C. By December 15, 2005, submit¹ a work plan for the installation of a groundwater monitoring well network. The plan must include on site replacement wells and the previously proposed off site down gradient well to define the lateral extent of groundwater contamination.
- D. Complete the implementation of the work plan required by Task C within 45 days of the Regional Water Board Executive Officer's concurrence with the plan.
- E. Submit a report of work done pursuant to Task D not more than 45 days after the date installation of the groundwater monitoring well network is complete.

Interim Groundwater Extraction

- F. Submit a final report documenting the interim groundwater extraction work by December 15, 2005. The report must include the chronology of events from the onset of extraction to completion, the total volume of groundwater extracted, plume migration control verification and disposal records for extracted groundwater.

Final Groundwater Extraction (Creek Discharge Abatement)

- G. Complete the installation of the final groundwater extraction system associated with the groundwater cut off wall and creek discharge abatement by December 15, 2005.
- H. Begin extraction system operation by January 16, 2006.
- I. Submit a report documenting work done pursuant to Tasks G and H by March 15, 2006.
- J. Operate the final groundwater extraction system until the Regional Water Board Executive Officer determines that system operation is no longer required.
- K. Submit quarterly reports including a description of all operation and maintenance activities, and information documenting system effectiveness such as drawdown and plume capture. The quarterly reports may be combined with the quarterly groundwater monitoring reports. The quarterly reports must be submitted by the 15th day of the month following the end of each quarter (April 15th, July 15th, October 15th and January 15th).

¹ For the purposes of this Order, the word "submit" means that the document must be received by the Regional Water Board on or before the associated deadline.

Groundwater Cleanup

- L. Submit a Corrective Action Plan addendum for the final groundwater cleanup alternative including a groundwater treatment system design by April 3, 2006. The system shall be designed to address the full extent of the plume including off-site migration beneath the Pacific Gas & Electric Company power substation located immediately west of the site.
- M. Complete the installation of the groundwater treatment system within 60 days of the Regional Water Board Executive Officer's concurrence with the plan.
- N. Begin system operation within 45 days of system installation.
- O. Submit a report documenting work done pursuant to Tasks M and N within 60 days of completion of system installation.
- P. Operate the final groundwater treatment system until the Regional Water Board Executive Officer determines that system operation is no longer required.
- Q. Submit quarterly reports including a description of all operation and maintenance activities, and information to document system effectiveness such as petroleum hydrocarbon removal or destruction rates over time. The quarterly reports may be combined with the quarterly groundwater monitoring reports described in Task K.

Final Report

- R. Submit a report by January 2, 2006, documenting the removal of impacted soil on site and from Santa Rosa Creek and the installation of the groundwater cut-off wall. The report shall document how the work was done in coordination of the 2004 City of Santa Rosa Prince Memorial Greenway Project. The report must include as built plans for the south bank of Santa Rosa Creek including the cut-off wall.

Additional Work

- S. Complete any additional work deemed reasonably necessary by the Regional Water Board Executive Officer to abate and cleanup the discharge of waste.
- T. If, for any reason, the Dischargers are unable to perform any activity or submit any documentation in compliance with the work schedule contained in this Order or submitted pursuant to this Order and approved by the Executive Officer, the Dischargers may request in writing, an extension of time as specified. The extension request must be submitted 5 days in advance of the due date and shall include justification for this delay including the good faith effort performed to achieve compliance with the due date. The extension request shall also include a proposed time schedule with new performance dates for the due date in question and all subsequent dates dependent on the extension. A written extension may be granted for good cause, in which case the Order will be revised accordingly.

Ordered by _____
Catherine E. Kuhlman
Executive Officer

October 7, 2005