

California Regional Water Quality Control Board
North Coast Region

Cleanup and Abatement Order No. R1-2007-0079

Redwood Tree Service Station, Inc.
Gerald A. Martyn

For

Redwood Tree Service Station
859 North State Street
Ukiah, California

Mendocino County

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

1. Redwood Tree Service Station (Site) is located at 859 North State Street, in Ukiah. The Site is comprised of three parcels, listed as Assessors Parcel Numbers 002-091-16, 002-091-17, and 002-091-18. Mr. Greg and Mrs. Kim Martyn are the current owners of the property. Mr. Gerald A. Martyn is the current owner and operator of Redwood Tree Service Station Inc.
2. The service station at the Site began operating in 1936. The Site has a complex history of fuel storage. Over the course of the Site's operations, a total of seven aboveground storage tanks (ASTs) occupied the "tank farm" area in the northern portion of the property. The tank inventory included four 3,000 to 4,000 gallon gasoline, diesel, kerosene, and stove oil tanks, two 10,000-gallon gasoline tanks, and one 10,000-gallon diesel tank. In the 1970's, the ASTs were replaced with three 12,000 gallon underground storage tanks (USTs): two containing gasoline (both leaded and unleaded) and one containing diesel fuel. In the late 1980's, a 550-gallon waste oil tank was installed.
3. On June 7, 1973, the UST operator, Jess Rawles, discovered that the plumbing connected to the USTs was broken and leaking. Necessary repairs were made to the plumbing to stop the leaking. Based upon Mendocino County Superior Court records, the concrete slab was found to be "negligently" constructed by Ivan Christensen of Christensen Construction, which resulted in multiple breaks in the plumbing and the loss of approximately 44,000 gallons of gasoline. The lost gasoline was discharged to the subsurface.

4. On February 17, 1999 the waste oil tank was removed. Strong odors and stained soil was observed during the tank pull. Three soil samples were collected from the tank excavation pit. Total petroleum hydrocarbons as gasoline (TPH-g) was reported in the soil samples up to 950 part per million (ppm), total petroleum hydrocarbons as diesel (TPH-d) up to 2,500 ppm, total petroleum hydrocarbons as motor oil (TPH-mo) up to 7,500 ppm, and oil & grease (O&G) up to 7,100 ppm. Volatile organic compounds [including benzene, toluene, ethylbenzene, and toluene (BTEX) and methyl tertiary butyl ether (MTBE)] were all reported below detection limits. An Unauthorized Release Form (URF) was submitted by the Mendocino County Health Department documenting the release from the waste oil tank.
5. On April 25, 2000, a preliminary site investigation was conducted to determine the impact to water quality in the area of the former waste oil tank. Soil samples were collected every five feet, starting at five feet below ground surface (bgs) and down to 15 feet, or at obviously contaminated soil. Odors and staining were documented during the collection of samples. Soil samples were analyzed for TPH-g, TPH-d, TPH-mo, BTEX and MTBE. Additionally, groundwater was sampled for fuel oxygenates. Soil analytical results reported TPH-g up to 480 ppm, TPH-d up to 440 ppm, TPH-mo up to 140 ppm. Groundwater analytical results reported TPH-g up to 23,000 ppb, TPH-d up to 14,000 ppb, TPH-mo up to 1,800 ppb, benzene up to 820 ppb, toluene up to 73 ppb, ethylbenzene up to 1,300 ppb, and xylenes up to 910 ppb. MTBE was detected in one sample at 53 ppb.
6. In September of 2001, a total of thirteen additional borings and three monitoring wells were installed to determine the extent of contamination. Soil sample analytical results have shown TPH-g up to 6,400 ppm and TPH-d up to 8,800 ppm. Groundwater analytical results have shown TPH-g up to 37,000 ppb and TPH-d up to 1,200,000 ppb. Results of the investigation have shown a wide spread distribution of soil and groundwater contamination at the Site. Data collected during the waste oil tank investigation provides evidence that additional sources need to be investigated to determine if other sources areas are contributing to soil and groundwater contamination.
7. To determine additional sources of contamination, Regional Water Board staff requested a workplan to propose installation of source wells at all potential sources of contamination. The scope of work was proposed in the December 1, 2005 *Work Plan for Source Well and Soil Boring Installation* and the August 10, 2006 *Work Plan Addendum*, both prepared by SCS Engineers. In a letter dated November 14, 2006, Mr. Martyn requested an extension for implementing the work plan (and addendum)

until the three USTs were removed from the Site. Regional Water Board staff concurred with this request.

8. In 2003, the UST piping system was upgraded. Soil samples were collected during the upgrade activities. Results reported TPH-g up to 6.3 ppm and TPH-d up to 730 ppm. An URF was submitted by the Mendocino County Health Department for the release of TPH-g and TPH-d from the piping system.
9. Monitoring and Reporting Program Order No. R1-2005-0080 was issued by the Executive Officer of the Regional Water Board on August 8, 2005. The Order requires quarterly groundwater monitoring activities for three existing, on-site wells. On January 3, 2007 a Notice of Violation (NOV) was issued to Gerald Martyn for failure to submit quarterly monitoring reports from 1st Quarter 2006, 2nd Quarter 2006, 3rd Quarter 2006, and 4th Quarter 2006 groundwater monitoring events. Additionally on June 12, 2007, an NOV was issued to Gerald Martyn for the submittal of an incomplete report for the 1st Quarter 2007 groundwater monitoring event.
10. On April 30, 2007 the three USTs were removed. Soil samples collected from the tank pit showed levels of TPH-g up to 3,200 ppm, TPH-d up to 1,100 ppm, toluene up to 13 ppm, ethylbenzene up to 50 ppm, and xylenes up to 260 ppm. One sample was collected from pit water. TPH-g was reported at 8,800 ppb, TPH-d up to 18,000 ppb, benzene up to 140 ppb, ethylbenzene up to 72 ppb, and xylenes up to 120 ppb. An URF was submitted by the Mendocino County Health Department for the documenting the release of TPH-g and TPH-d from the USTs. The USTs were not replaced and the fueling station portion of the business is no longer operational. Additional investigative and remedial action is needed to determine the impact to water quality from the UST release(s), identify other sources of contamination, define the extent of contamination, and restore the beneficial uses of groundwater.
11. The Water Quality Control Plan for the North Coast Region (Basin Plan) designates beneficial uses of the waters of the State, establishes water quality objectives to protect those uses, and establishes implementation policies to implement water quality objectives. The beneficial uses of areal groundwater include domestic, agricultural, and industrial supply.
12. The Basin Plan includes numeric water quality objectives for groundwater, e.g., state drinking water maximum contaminant levels that are incorporated by reference. The Basin Plan also includes a narrative taste and odor water quality objective for groundwater, which states "Groundwater shall not contain taste- or odor-producing substances at concentrations which cause nuisance or adversely affect beneficial uses."
13. Based on the information contained in the record assembled by the Regional Water Board, groundwater samples document that the

groundwater quality exceeds the water quality objectives in the Basin Plan. Additionally, the soil sample data also indicates that a continuing discharge to the groundwater is threatened. Given the evidence of past discharges at the Site and current ownership and control: Mr. Greg Martyn, Mrs. Kim Martyn, Mr. Gerald A. Martyn and Redwood Tree Service Station, Inc., are hereinafter referred to as the Dischargers.

14. The applicable water quality objectives in the Basin Plan have been exceeded and constitute pollution, as defined by Water Code Section 13050(l). Where 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, Water Code 13304 gives the Regional Water Board the authority to issue an order to the Discharger to clean up the waste and abate the effects of the waste.
15. The State Water Resources Control Board Resolution (State Water Board) has adopted Resolution No. 92-49, "Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under Water Code Section 13304", setting forth the policies and procedures to be used during an investigation or cleanup of a polluted site and requires that cleanup levels be consistent with State Board Resolution 68-16, the "Statement of Policy with Respect to Maintaining High Quality of Waters in California. Resolution 92-49 requires cleanup and abatement of the effects of discharges in a manner that promotes attainment of either background water quality levels, or the best water quality which is reasonable if background levels of water quality cannot be restored, considering all demands being made and to be made on those waters and the total values involved, beneficial and detrimental, economic and social, tangible and intangible.
16. Alternative cleanup levels that establish greater than background concentration limits for constituents of concern are permitted only if the discharger demonstrates that 1) it is not technologically or economically feasible to attain background levels; and 2) that the constituents of concern will not pose a substantial present or potential hazard to human health or the environment as long as the concentration limits set greater than background are not exceeded. Attachment A includes those water quality objectives that the Regional Water Board believes are necessary to protect human health and the environment.
17. If the discharger demonstrates that it is not technologically or economically feasible to attain background levels during cleanup of the Site, the Regional Water Board will set alternative cleanup levels after considering the conditions set forth in section 2550.4 of Title 23 of the California Code of Regulations (23 CCR § 2550.4), and determining that the alternative cleanup level: 1) is consistent with the maximum benefit to the people of

the state; 2) will not unreasonably affect present and anticipated beneficial use of such water; and 3) will not result in water quality less than that prescribed in the Basin Plan and Policies adopted by the State Water Board, as required by State Water Board Resolution 92-49.

18. Section 13267(b) of the Water Code provides that “in conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region ... shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including the costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring these reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.”
19. The technical reports required by this Order are necessary to assure compliance with 13304 of the Water Code. Existing data and information about the Site indicates that waste has been discharged or is discharging at the property, which is owned and operated by the Discharger named in this Order.
20. 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”).
21. 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 title 14, California Code of Regulations, sections 15308 and 15321.
22. Pursuant to Water Code 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 Cleanup and Abatement Order.
23. Any person affected by this action of the Board may petition the State Water Board to review the action in accordance with Water Code section 13320 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. To be timely, such request must 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 the Dischargers choose to appeal the Order, the Dischargers are advised that they must comply with the Order while the appeal is being considered. The appeals process is enclosed as Attachment 2.

24. This Order in no way limits the authority of the Regional Water Board to institute additional enforcement actions or to require additional investigation and cleanup at the facility consistent with the Water Code. This Order may be revised by the Regional Water Board Executive Officer as additional information becomes available.
25. Failure to comply with the terms of this Order may result in enforcement under the Water Code. 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 Water Code 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 Water Code 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, pursuant to Water Code Sections 13267 and 13304, the Dischargers shall cleanup and abate the discharge and threatened discharge forthwith and shall comply with the following provisions of this Order:

- A) All work shall be conducted in accordance with all applicable local ordinances and under the direction of a California Professional Geologist or licensed Civil Engineer experienced in soil and groundwater pollution investigation and remediation system design. All necessary permits shall be obtained prior to conducting work.
- B) Comply with Monitoring and Reporting Program Order No. R1-2005-0080 and subsequent revisions thereof.
- C) Within 10 days from the date of this Order, provide a status report on the disposal of stockpiled soil from the UST removal.
- D) Within 60 days from the date of this Order, submit an updated sensitive receptor survey. The survey shall include a more thorough search for

domestic water supply wells within a 1,000-foot radius of the site. Additionally, the survey must also include identification of surface water bodies, potential preferential pathways including on-site subsurface utilities, and sensitive environmental habitat pathways, also within a 1,000 foot radius of the site.

- E) Within 60 days from the date of this Order, submit a workplan to the Executive Officer of the Regional Water Board for a preliminary site assessment to determine the impact to water quality from the UST system release(s). The workplan must also propose a scope of work to identify all other on-site sources of contamination. The proposal must include a cost evaluation for determining additional sources of contamination including, but not limited to: hydropunch borings, monitoring well installation, and passive and active soil gas surveys. The method chosen for identifying other on-site sources of contamination must be selected on technical and economic feasibility.
- F) Within 60 days of the Regional Water Board Executive Officer's concurrence with the workplan, the workplan shall be implemented.
- G) Within 90 days of workplan implementation, submit a full report of findings to the Executive Officer of the Regional Water Board. The report must include an assessment of identified source areas, recommendations to perform interim remedial action measures to abate or correct the actual or potential effects of any unauthorized release(s), recommendations to conduct further site investigation to determine the impact of water quality from newly identified source areas and to conduct further site investigation to determine the extent of contamination in the area of the USTs.
- H) Complete any additional work deemed reasonably necessary by the Regional Water Board's Executive Officer to abate and cleanup the discharge of waste or threatened discharge of waste, and to protect human health and the environment.
- I) 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. The extension request must be submitted a minimum of five business days in advance of the due date sought to be extended and shall include justification for the delay and a demonstration of a good faith effort to achieve compliance with the due date. The extension request shall also include a proposed time schedule with a new performance date for the due date in question and all subsequent dates dependent on the extension. An extension may be granted for good cause by written concurrence from the Executive Officer.

- J) Violations of any of the terms and conditions of this Order will subject Dischargers to possible enforcement action, including civil liability under applicable provisions of the Water Code.

Ordered By: _____

Robert Klamt
Interim Executive Officer
August 30, 2007