

California Regional Water Quality Control Board  
North Coast Region

Cleanup and Abatement Order No. R1-2008-0118

For

Norm Erlich  
Sharon Erlich

And

River's Edge RV Park

620 Davis Street  
Rio Dell

Humboldt County

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

1. Norm Erlich and Sharon Erlich (hereinafter Dischargers) own and operate the River's Edge RV Park at 620 Davis Street in Rio Dell, California, (hereinafter Facility). The River's Edge RV Park includes has a gravity collection system which conveys sanitary sewage into a large holding tank, then to a lift station which pumps into the Rio Dell sewer system. This system handles 44 RV lots, 1 mobile home lot, a laundry facility, two bathrooms and an RV dumping station. The Facility is located immediately adjacent to the Eel River.
2. Sewage from the sanitary disposal ports drains to a lift station owned by the Dischargers. The lift station pumps the raw domestic sewage to the City of Rio Dell's municipal sanitary sewer system. The lift station is designed to perform as an alternating dual pump system, but is in a state of disrepair, which has resulted in repeated discharges of raw sewage to the ground surface within the Facility and adjacent to the Eel River.
3. On May 22, 2008, representatives of the Department of Fish and Game (DFG) inspected the Facility, and observed that the Dischargers and/or their agents had constructed a berm to divert the raw sewage which had been flowing out of the lift station away from an occupied trailer space and toward the floodplain of the Eel River. On May 23, 2008, both the City of Rio Dell and DFG notified Regional Water Board staff that, from May 16 to May 21, 2008, raw sewage had been flowing continuously out of the Dischargers' lift station onto the ground and into the flood plain of the Eel River.
4. On May 29, 2008, Regional Water Board staff notified the Dischargers in writing that discharges of sewage from the Facility's collection system and/or lift station

onto the ground and into the floodplain of the Eel River constitute a potential violation of the Clean Water Act and a violation of the California Water Code.

5. On September 8, 2008, Humboldt County Environmental Health Department staff received a complaint that raw sewage had discharged from the lift station on September 5, 2008. On September 9, 2008, County staff responded to the complaint, and confirmed that the lift station pump had apparently malfunctioned, allowing a substantial volume of sewage to overflow and pond, up to 3-4 inches deep, around the area of spaces 39-44. The County inspector noted that an odor remained, as well as pieces of toilet paper and a large moist area where sewage had ponded. The inspector also noted that a little earthen berm had been constructed, apparently to try to contain effluent. Facility occupants told County staff that other overflows have occurred since the incident in late May 2008.
6. On September 11, 2008, State Department of Housing inspected the facility and spoke to several residents. Residential interviews indicated that sewage overflows occurred on a chronic basis. State Department of Housing staff determined that the sanitary sewage collection system at the Facility is substandard based on site inspection, resident interviews, and interviews with maintenance personnel.
7. The Clean Water Act prohibits the discharge of any pollutant by any person, unless in compliance with specific provisions of the Act, including a National Pollutant Discharge Elimination System (NPDES) permit, which implements stringent limitations that are necessary to achieve water quality standards. (33 U.S.C. §1311(b)(1)(B) and (C)). A sanitary sewer overflow (SSO) that results in the discharge of raw sewage to surface waters is prohibited under the Clean Water Act. Additionally, California Water Code section 13264 prohibits initiating any new discharge of waste or making any material changes in any discharge prior to filing a report of waste discharge with the appropriate regional board.
8. Current Facility sewage management practices have caused and may continue to cause pollution and nuisance. Water Code section 13050(l) defines "pollution" as "an alteration of the quality of the waters by waste to a degree which unreasonable affects ... waters for beneficial uses." The discharge of sewage to land areas and discharges and potential discharges to the Eel River threaten to adversely impact water quality and beneficial uses of surface and ground waters of the Eel River watershed, which are set out in paragraph 9, below. In addition, the discharge of raw sewage creates a nuisance, which is defined in Water code section 13050(m) as anything which 1) is injurious to health, or is indecent or offensive to the senses; 2) affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal; and 3) occurs during, or as the result of, the treatment or disposal of wastes.

9. The Regional Water Board adopted the *Water Quality Control Plan for the North Coast Region* (hereinafter Basin Plan), which designates beneficial uses, establishes water quality objectives, and contains implementation programs and policies to achieve those objectives for all waters addressed in the Basin Plan. The Basin Plan identifies the following existing and potential beneficial uses for Groundwater and the Eel River within the Scotia Subarea of the Eel River Hydrologic Unit including:

Groundwater Existing Beneficial Uses:

Municipal and Domestic Supply  
Agricultural Supply  
Industrial Service Supply  
Freshwater replenishment to Surface Waters  
Native American Culture

Groundwater Potential Beneficial Uses:

Industrial Process Supply  
Aquaculture

Eel River Existing Beneficial Uses :

Municipal and Domestic Supply  
Agricultural Supply  
Industrial Service Supply  
Groundwater Recharge  
Freshwater Replenishment  
Navigation  
Water Contact Recreation  
Non-Contact Water Recreation  
Commercial and Sport Fishing  
Cold Freshwater Habitat  
Wildlife Habitat  
Preservation of Rare, Threatened, or Endangered Species  
Migration of Aquatic Organisms  
Spawning, Reproduction, and/or Early Development

Eel River Potential Beneficial Uses :

Industrial Process Supply  
Hydropower Generation

10. The Basin Plan contains specific water quality objectives and provisions for maintaining high quality waters of the state in order to achieve and maintain the beneficial uses listed above. Based upon the characteristics of domestic sewage, raw sewage discharged to locations where it may enter surface or ground water may violate the following narrative water quality objectives for surface water set out in the Basin Plan:

Floating Material

Waters shall not contain floating material, including solids, liquids, foams, and scum, in concentrations that cause nuisance or adversely affect beneficial uses.

Suspended Material

Waters shall not contain suspended material in concentrations that cause nuisance or adversely affect beneficial uses.

Settleable Material

Waters shall not contain substances in concentrations that result in deposition of material that causes nuisance or adversely affect beneficial uses.

Oil and Grease

Waters shall not contain oils, greases, waxes, or other materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water, that cause nuisance, or that otherwise adversely affect beneficial uses.

Biostimulatory Substances

Waters shall not contain biostimulatory substances in concentrations that promote aquatic growths to the extent that such growths cause nuisance or adversely affect beneficial uses.

Bacteria

The bacteriological quality of waters of the North Coast Region shall not be degraded beyond natural background levels. In no case shall coliform concentrations in waters of the North Coast Region exceed the following:

In waters designated for contact recreation (REC-1), the median fecal coliform concentration based on a minimum of not less than five samples for any 30-day period shall not exceed 50/100 ml, nor shall more than ten percent of total samples during any 30-day period exceed 400/100 ml (State Department of Health Services).

11. The following sections of the Porter-Cologne Water Quality Control Act authorize the Regional Water Board to require persons to provide technical or monitoring program reports and to cleanup the waste or abate the effects of the waste, or in the case of threatened pollution or nuisance, take other necessary remedial action:
  - 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.”*
12. As described above, the Dischargers own and operate 44 RV spaces, which deposit sewage into sanitary disposal ports, which is then transferred via a lift station to the municipal sewer. Current sewage management practices and their cumulative impacts have caused, and threaten to cause additional discharges of sewage waste to the ground surface where it may enter area groundwater and/or the Eel River. As described in paragraph 8, above, these conditions constitute a condition of pollution and nuisance, and violate narrative water quality objectives for surface waters set out in the Basin Plan, as described in paragraph 9, above. As such, these discharges onto land, where it may enter groundwater or surface waters, must be abated, and the effects of the discharge cleaned up to prevent future additional discharges.
13. A lift station repair and management 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, and the costs of these reports bear a reasonable relationship to this important need for, and the potential benefits from, the reports.

14. This is an enforcement action taken by a regulatory agency 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, title 14, sections 15308 and 15321.
15. Failure to comply with the terms of this Order may result in further 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.
16. 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 Water Code section 13320 and title 23, California Code of Regulations, section 2050-2068. 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 is sought, filing a petition with the State Water Board within the 30-day period is necessary to preserve the petitioner's legal rights. Additionally, 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 Water Code sections 13267(b) and 13304, the Dischargers shall:

1. Immediately abate all discharges of domestic sewage to the ground surface.
2. By **November 15, 2008**, submit written summary report describing disposal associated with each RV space and any additional sources of domestic waste generated, collected, or conveyed at the Facility. Locations of those activities shall be depicted on an attached Facility map drawn to scale. The submittal shall further include the age, composition, condition and functionality of all disposal and conveyance components at the Facility.

3. By **December 15, 2008**, submit an acceptable lift station repair and management plan (Plan) for Regional Water Board staff approval. The Plan shall address repair and replacement of any broken, failing, or dilapidated equipment associated with sewage collection, conveyance, storage, and pumping.
4. By **February 15, 2009**, implement the approved Plan cited in number 3 above, by completing any necessary construction and/or repairs of the onsite sewage collection and conveyance in a manner that will ensure prevention of further unpermitted discharges.
5. By **March 31, 2009**, submit a signed certification that work has been completed in accordance with the approved Plan. Certification shall include, but not be limited to a written description of work completed, receipts for labor and materials, as well as photo documentation of each work area.

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, including the imposition of administrative civil liability for past and future discharges, or to require additional investigation and cleanup at the Facility consistent with California Water Code. This cleanup and abatement order may be revised by the Executive Officer as additional information becomes available.

Ordered by \_\_\_\_\_

Catherine Kuhlman  
Executive Officer

October 14, 2008