

California Regional Water Quality Control Board
North Coast Region

CLEANUP AND ABATEMENT ORDER No. R1-2012-0078

For

John Moore and Jean Moore
2144 Long Canyon Road
Covington Mill, California

Trinity County

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

1. On June 26, 2012, this office received a Hazardous Materials Spill Report from the California Emergency Management Agency concerning the discovery of a petroleum discharge from an above-ground storage tank at the property identified as 2144 Long Canyon Road in Covington Mill. The time frame of the discharge is suspected to have occurred during the winter of 2011-2012. The property is located in a remote rural area of Trinity County, west of Highway 3.
2. John Moore and Jean Moore are owners of the property and the above-ground storage tank where the discharge occurred. John Moore and Jean Moore are collectively hereinafter referred to as the Discharger.
3. On June 27, 2012, an inspection of the property was made by Trinity County Health & Human Services Department staff. The discharged fuel was described to have impacted soil and surface water. Photographs also provide evidence of the discharge to soil and surface water.
4. The existing and potential beneficial uses of the Upper Trinity River Hydrologic Area of the Trinity River Hydrologic Unit include:
 - a) Municipal And Domestic Supply
 - b) Agricultural Supply
 - c) Industrial Service Supply
 - d) Industrial Process Supply
 - e) Groundwater Recharge
 - f) Freshwater Replenishment
 - g) Hydropower Generation
 - h) Water Contact Recreation
 - i) Non-Contact Water Recreation
 - j) Commercial And Sport Fishing
 - k) Cold Freshwater Habitat
 - l) Wildlife Habitat
 - m) Migration Of Aquatic Organisms
 - n) Spawning, Reproduction, And/or Early Development Of Fish
 - o) Aquaculture

5. The Discharger has caused or permitted, causes or permits, or threatens to cause or permit waste to be discharged 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. The discharge and threatened discharge of contaminants may unreasonably affect water quality in that the discharge or threatened discharge is deleterious to the above described beneficial uses of State waters, and may impair water quality to a degree which creates a threat to public health and public resources and therefore, constitutes a condition of pollution or nuisance. These conditions threaten to continue unless the discharge or threatened discharge is permanently cleaned up and abated.
6. 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 to background levels is the presumptive standard. Alternative cleanup levels greater than background concentrations 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 less than prescribed in the Basin Plan and Policies adopted by the State and Regional Water Board. Any proposed alternative that will not achieve cleanup to background levels, must be supported with evidence that it is technologically or economically infeasible to achieve background levels, and that the pollutant will not pose a substantial present or potential hazard to human health or the environment for the duration of the exceedance of background levels (SWRCB Res. Nos. 68-16 and 92-49; California Code of Regulations, title 23, section 2550.4, subds. (c), and (d)).
7. Discharge prohibitions contained in the Basin Plan apply to this discharge. State Water Resources Control Board Resolution 68-16 (Non-Degradation Policy) applies to this discharge. State Water Resources Control Board Resolution 92-49 applies to this discharge and sets out the "Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under section 13304 of the California Water Code."
8. Reasonable costs incurred by Regional Water Board staff in overseeing cleanup or abatement activities are reimbursable under Water Code section 13304(c)(1).
9. 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 Discharger chooses to appeal the Order, the Discharger is advised that they must comply with the Order while the appeal is being considered.

10. 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 sections 15308 and 15321, title 14 of the California Code of Regulations.
11. 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 California Water Code sections 13267(b) and 13304, the Dischargers shall cleanup and abate the discharge and threatened discharge forthwith and shall comply with the following provisions of this Order:

1. Conduct all work under the direction of a California registered civil engineer or professional geologist experienced in surface water, soil, and groundwater investigation and remediation.
2. Coordinate investigation and cleanup activities associated with soils, surface waters, and groundwater with Regional Water Board staff, Trinity County Environmental Health staff, California Department of Fish and Game staff, and other regulatory agencies involved in the cleanup. All work plans and reports submitted to the Executive Officer of the Regional Water Board shall be signed and stamped by a licensed professional as specified in Provision 1, above.

Submit a work plan to the Regional Water Board by July 20, 2012 to investigate the extent of contamination. Surface water, groundwater and soil sampling plans must be included. The work plan must be implemented within 72 hours following concurrence of the plan by the Executive Officer.

3. Based on information obtained in the investigation, remove contaminated soil to the extent feasible. If encountered, contain, cleanup or remove contaminated waters to the extent feasible. The initial report of cleanup activities shall be submitted to the Executive Officer by August 10, 2012, and every two weeks thereafter until activities are completed, or until the Executive Officer modifies the reporting schedule. The reports shall contain the results of any sampling performed and recommendations for further action, if needed.
4. Conduct a sensitive receptor survey within 1500 feet of the known extent of the discharge. The sensitive receptor survey must include, at a minimum, locations of water supply wells and water supply intake structures, preferential pathways, sensitive environmental habitats, and the identification of any potential health and safety issues.

The sensitive receptor report shall be submitted to the Executive Officer by August 10, 2012.

5. Pay all cost recovery invoices within 30 days of issuance of the invoice.
6. Complete any additional work deemed reasonably necessary by the Regional Water Board's Executive Officer to cleanup and abate the discharge of waste or threatened discharge of waste, and to protect beneficial uses of surface and groundwater, human health and the environment.
7. If, for any reason, the Discharger is unable to perform any activity or submit any documentation in compliance with the directives contained in this order or submitted pursuant to this order and approved by the Executive Officer, the Discharger may request in writing, an extension of time as specified. The extension request must be submitted five days in advance, if possible, 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.
8. This 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 site consistent with state and federal law. This Order may be revised by the Executive Officer as additional information becomes available.

Ordered by: _____
Matthias St. John
Executive Officer

July 10, 2012