

California Regional Water Quality Control Board
North Coast Region

Cleanup and Abatement and 13267 Order No. R1-2014-0059

For

Fernbridge Tractor & Equipment Company and Barnes Tractor & Equipment Company
20 Depot Street
Fortuna, California

Humboldt County
WDID No. 1B14068CNHU

This Cleanup and Abatement Order (CAO or Order) is issued to Fernbridge Tractor & Equipment Company and Barnes Tractor & Equipment Company (Discharger) pursuant to California Water Code (Water Code) section 13304, which authorizes the California Regional Water Quality Control Board, North Coast Region (Regional Water Board) to issue a CAO, and Water Code section 13267, which authorizes the Regional Water Board to require the preparation and submittal of technical and monitoring reports.

The Executive Officer of the Regional Water Board finds that:

1. Mr. Dick Lindsay owns and operates Fernbridge Tractor & Equipment Company that sells and services a variety of small and large tractors and other motorized equipment at 20 Depot Street (Facility). Barnes Tractor & Equipment Company owns the property located at 20 Depot Street in Fortuna. Fernbridge Tractor & Equipment Company and Barnes Tractor & Equipment Company are herein named as "Discharger".
2. The servicing activities include power washing equipment. The power washing occurs on a concrete pad within an open-front structure immediately adjacent to a drainage ditch that bisects the rear section of the property. The drainage ditch, which drains much of the Facility and portions of Fernbridge Drive, extends from the Facility to the Eel River, approximately 200 feet downstream of the property.
3. On August 14, 2013, Regional Water Board staff inspected the Discharger's equipment washing practices. The inspection was in response to a complaint received from an inspector from the Humboldt County Division of Environmental Health regarding pollutant discharges to receiving waters. Mr. Lindsay, the Discharger, accompanied Regional Water Board staff on the inspection. During the inspection, staff confirmed that wastewater from the power wash area drains to a drop inlet that directly discharges into the drainage ditch that drains to the Eel River, a water of the state and water of the United States.
4. During the August 14, 2013 inspection, Regional Water Board staff did not observe any type of wastewater treatment system, such as a wastewater recycling/recirculation system to eliminate the discharge of pollutants from the power washing area. Regional Water Board staff stated that the untreated washwater constituted an illegal discharge.
5. On February 21, 2014, staff from both the Regional Water Board and the Humboldt County Division of Environmental Health re-inspected the Facility and the power washing area. Regional Water Board staff observed that wastewater was still being discharged into the drop

inlet, thence to the drainage ditch leading to the Eel River. Further, Regional Water Board staff observed a completely spent oil absorbent pad in the drainage ditch, and staff noted that water in the ditch was a pale gray with no transparency. Staff observed sludge and grey sediments that had settled on the ground adjacent to the drop inlet grate. Staff reiterated that the discharge was prohibited, and asked for information on how the situation would be resolved. The Discharger stated that they were going to install a water recycling wash system, and eliminate the wastewater discharge.

6. On February 28, 2014, the Regional Water Board received written correspondence from the Discharger claiming that wastewater from the power washing area does not discharge into a creek (Eel River) but, rather, into a "holding channel," and that the wastewater is "treated by bulrushes." The Discharger's letter also stated that the Discharger was not planning to correct or eliminate the discharge, as had been discussed with site personnel during the February 21, 2014 inspection.
7. Ongoing equipment power washing activities, observed on August 14, 2013 and February 21, 2014 at the Facility, result in the unpermitted discharge of waste into waters of the state and waters of the United States, in violation of the Basin Plan, California Porter-Cologne Act, and the federal Clean Water Act.

Legal and Regulatory Authority

8. The beneficial uses of the Eel River and its tributaries, as designated in the Water Quality Control Plan for the North Coast Region (Basin Plan), include:
 - a. Municipal and domestic supply
 - b. Agricultural supply
 - c. Industrial service supply
 - d. Industrial process supply
 - e. Groundwater recharge
 - f. Freshwater replenishment
 - g. Navigation
 - h. Hydropower generation
 - i. Water contact recreation
 - j. Non-contact water recreation
 - k. Commercial and sport fishing
 - l. Cold freshwater habitat
 - m. Wildlife habitat
 - n. Preservation of rare, threatened or endangered species
 - o. Migration of aquatic organisms
 - p. Spawning, reproduction, and/or early development
9. The discharge of commercial equipment washing wastewater to the Eel River without a National Pollutant Discharge Elimination System (NPDES) permit is prohibited. This unpermitted wastewater discharge can adversely impact water quality and the beneficial uses of Eel River due, at a minimum, to the potential for sediment, heavy metal, and hydrocarbon pollution.

10. Water Code section 13304, subdivision (a) provides, in relevant part, that: “Any person who has discharged or discharges waste into waters of this state in violation of any waste discharge requirement or other order or prohibition issued by a regional board or by 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 the 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.”
11. Regional Board staff’s inspections, described above, confirm that the Discharger has caused or permitted wastewater to be discharged or deposited into a water of the state. In addition, the Discharger creates or threatens to create a condition of pollution or nuisance where the Discharger continues to engage in equipment power washing activities that wash wastewater containing sediment, heavy metal, and hydrocarbons into waters of the state and waters of the United States. The Discharger is therefore subject to comply with this Order under Water Code section 13304.
12. Water Code section 13267, subdivision (a), authorizes the Regional Water Board to investigate the quality of any waters of the state within its region in connection with any action relating to the Basin Plan. Water Code section 13267, subdivision (b) provides that the Regional Water Board, in conducting an investigation, may require dischargers to furnish, shall furnish, under penalty of perjury, technical or monitoring program reports. A technical report and Corrective Action Workplan required by this Order, pursuant to Water Code section 13267, is necessary to ensure that the prior harm and future threat to water quality created by the discharges or threatened discharges described above are properly assessed, abated, and controlled. Such a report or plan provides the regulatory agency with the information necessary to assess the extent of impacts to water quality and the steps the Discharger intends to take to cease and correct any further discharges to waters of the state. Due to the importance of protecting the state’s water resources, the costs associated with developing a technical report and work plan bear a reasonable relationship to the benefits to be obtained from the reports.

THEREFORE, IT IS HEREBY ORDERED that, pursuant to Water Code sections 13304 and 13267 that the Discharger shall provide the following information and take the following actions to comply with this Order:

1. Immediately cease any further discharge of equipment washing and any other wastewater to the drop inlet, the drainage ditch adjacent to the Facility, or any other water of the state or the United States or tributary thereto and provide written confirmation within 7 days of completion that the wastewater discharges have ceased.
2. By **January 15, 2015**, submit a Corrective Action Workplan for Regional Water Board Executive Officer’s approval, including short-term and long-term corrective actions with a time schedule to cease the wastewater discharge or threatened discharge to the drop inlet, the drainage ditch, or the Eel River.

3. Plan and correspondence submittals. Plans and correspondence required under this Order shall be submitted to the Regional Water Board via e-mail to NorthCoast@waterboards.ca.gov or on disk (CD or DVD) in a Portable Document Format (PDF) file in lieu of paper-sourced documents. The guidelines for electronic submittal of documents can be found on the Regional Water Board website at <http://www.waterboards.ca.gov/northcoast>.

General Requirements

4. The Discharger will obtain all local and state permits and access agreements necessary to fulfill the requirements of this Order prior to installation of the approved system.
5. If, for any reason, the Discharger is unable to perform any activity or submit any documentation in compliance with the schedule set forth herein, or in compliance with any work schedule submitted pursuant to this Order and approved by the Executive Officer, the Discharger may request, in writing, an extension of the time specified. The extension request shall include justification for the delay. Any extension request shall be submitted as soon as the situation is recognized and no later than the compliance date. An extension may be granted by revision of this Order or by a letter from the Executive Officer. Extension requests not approved in writing by the Executive Officer with reference to this Order are denied.
6. This Order in no way limits the authority of this Regional Water Board to take 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 Executive Officer as additional information becomes available.
7. Failure to comply with the terms of this Order may subject the Discharger to administrative civil liability, including an amount of up to five thousand dollars (\$5,000) per day of violation or ten dollars (\$10) per gallon of waste discharged pursuant to section 13350 of the Water Code and up to \$1,000 per day for failing to provide the technical reports required by this Order pursuant to section 13268 of the Water Code.

Notifications

8. Pursuant to Water Code section 13304 (c)(1), the Regional Water Board is entitled to and can seek reimbursement for reasonable costs incurred to investigate the unauthorized discharge of wastes, to oversee cleanup of the wastes, supervising cleanup and abatement activities, or taking other remedial actions required by this Order.
9. 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.
10. 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 reconsideration of this Order by the Executive Officer of the Regional Water Board. To be timely, such request must be made in writing within 30 days of the date of this Order. Please 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. Additionally, if the Discharger chooses to request reconsideration of this Order or file a petition with the State Water Board, the Discharger must comply with the Order while the request for reconsideration and/or petition is under consideration.

11. This Order is effective upon the date of signature.

Ordered by:

Original Signed By

Matthias St. John
Executive Officer

November 13, 2014