California Regional Water Quality Control Board
North Coast Region

CLEANUP AND ABATEMENT ORDER NO. R1-2000-66

FOR

SHELL OIL COMPANY,
HUMBOLDT PETROLEUM, INC.,
ROBERT H. WOTHERSPOON, JOY A. WOTHERSPOON, AND JAMES SEILER
WOTHERSPOON & WOTHERSPOON

AND

ROBERT E. IMPERIALE, JR.
400 EIGHTH STREET
FORTUNA, CALIFORNIA

Humboldt County

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

1. Shell Oil Company, Wotherspoon & Wotherspoon, and Robert E. Imperiale, Jr., owned or currently own property located at 400 Eighth Street in Fortuna, California (hereinafter site), as shown on Attachment A.

2. The site was used for aboveground and underground storage of petroleum products during Shell Oil Company and Wotherspoon & Wotherspoon periods of control. The site is currently owned by Robert E. Imperiale, Jr., who has stated that he did not operate the fuel tanks since his acquisition of the property in 1986.

3. On August 16, 1923, Shell Oil Company purchased the site for bulk storage of petroleum products. Shell Oil Company owned and operated the site until 1969. On August 11, 1969, Shell Oil Company sold the property to Peter and Helen Wotherspoon. In March 1980, the property was purchased by Wotherspoon & Wotherspoon, a partnership composed of Robert H. Wotherspoon, Joy A. Wotherspoon, and James Seiler. Wotherspoon & Wotherspoon changed its name to Humboldt Petroleum on October 18, 1985. The Deed of Trust for the property was conveyed in 1986 to Robert E. Imperiale, Jr., the current owner.

4. Between 1923 and 1969 five above ground tanks were installed at the site. The storage tanks were serviced by both truck and railroad tank cars. Two underground storage tanks were later installed in 1974.

5. On January 30, 1989, the Humboldt County Environmental Health Department conducted a site inspection and found the site soils to be saturated with petroleum hydrocarbons. The Humboldt County Environmental Health Department referred the site to the Regional Water Board on February 2, 1989. Regional Water Board

staff conducted an inspection of the site on February 25, 1989 and confirmed the complaint observations.

6. Extensive soil and groundwater contamination exists at this site. The discharges are from releases associated with former fuel storage and dispensing activities. Historical operations of bulk petroleum plants generally include spills and leaks associated with the operation of above and below ground tanks. Evidence of past spills and discharges are present at the facility. Shell Oil Company, Wotherspoon & Wotherspoon, Humboldt Petroleum, and Robert E. Imperiale have owned and/or operated the above and/or below ground tanks at this facility. All of the aforementioned parties are hereinafter collectively referred to as "the dischargers".

7. On March 20, 1989, Regional Water Board staff contacted Robert E. Imperiale and requested the submittal of a preliminary site assessment workplan to determine the extent of soil contamination and impacts to groundwater. No workplan was submitted.

8. On March 30, 1993, the Executive Officer issued Cleanup and Abatement Order 92-29, requiring the collection of technical data to define the extent of site contamination. Several phases of investigation activity have been performed in accordance with Cleanup and Abatement Order 92-29. Investigation results confirm significant contamination of site soil and groundwater. Cleanup and abatement activities remain to be performed at the site. These activities include: a) conducting a feasibility study assessing remedial alternatives, b) performing appropriate cleanup and abatement activities, and c) performing quarterly monitoring. The remaining activities require a new schedule for completion. Therefore, this Order replaces Cleanup and Abatement Order No. 92-29 as to the cleanup and abatement activities required to be conducted on the site and reflects the new schedule for completion of required activities.

9. Site groundwater has been impacted with petroleum hydrocarbons. Beneficial uses of areal groundwater include domestic water supply, agricultural water supply, and industrial water supply.

10. The site is located within 2000 feet of the Eel River. The existing and potential beneficial uses of the Eel River include:

    a) municipal & domestic supply
    b) groundwater recharge
    c) agricultural supply
    d) habitat for rare and endangered species
    e) navigation
    f) water contact recreation
    g) non-contact water recreation
    h) cold freshwater habitat
    i) wildlife habitat

j) migration of anadromous fish
k) fish spawning area
l) industrial supply
m) hydropower generation
n) commercial and sport fishing
o) warm freshwater habitat
p) estuarine habitat
q) aquaculture

11. The dischargers have caused or permitted, cause or permit, or threaten to cause or permit waste to be discharged where it is, or probably will be, discharged into waters of the State and create, or threaten to create, a condition of pollution or nuisance. The discharge and threatened discharge of petroleum hydrocarbons has unreasonably affected water quality in that the discharge or threatened discharge is deleterious to the above described beneficial uses of State waters, and has created a condition of pollution or nuisance which threatens to continue unless the discharge or threatened discharge is permanently cleaned up and abated.

12. The California Water Code, and regulations and policies developed thereunder, require cleanup and abatement to provide attainment of background levels of water quality, or the highest 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 deleterious, economic and social, tangible and intangible. Alternative cleanup levels less stringent than background concentrations shall be consistent with the maximum benefit to the people of the State, not unreasonably affect present and anticipated beneficial uses of such water, and not result in water quality less than prescribed in the Water Quality Control Plans and Policies adopted by the State and Regional Water Boards.

13. Water quality objectives exist to ensure the beneficial uses of water. The highest beneficial use to be protected at or near the site is domestic water supply. However, other beneficial uses of water exist, and the most stringent objective for protection of all beneficial uses is selected as protective for water quality. The following table sets out water quality objectives for this site:

CHEMICAL	BACKGROUND LEVEL	WATER QUALITY OBJECTIVE	REFERENCE FOR OBJECTIVE
gasoline	< 50 ug/l	< 50 ug/l	Published literature provides a taste and odor threshold of 5 ug/l which is applied to the narrative TASTE and ODOR objective of the Basin Plan for domestic supply, but detection limit is 50 ug/l and is controlling
diesel	< 50 ug/l	56 ug/l	USEPA health advisory of September 4, 1992, Suggested No Adverse Response Level (SNARL) of 56 ug/l which is applied to narrative TOXICITY water quality objective
motor oil	< 50 ug/l	< 175 ug/l	Suggested No Adverse Response Level (SNARL) of 0.1 to 1.0 ug/l which is applied to narrative TOXICITY water quality objective, but laboratory detection limit is 175 ug/l and is controlling
benzene	< 0.5 ug/l	1.0 ug/l	Maximum contaminant level (MCL) is 1.0 ug/l; USEPA health advisory for cancer risk is o.7 ug/l applied TOXICITY water quality objective.
toluene	< 0.5 ug/l	42 ug/l	USEPA taste and odor threshold, Federal Register 54(97):22064-22138; applied TASTE AND ODOR water quality objective. There is a less stringent CA Dept. Health Services action level of 100 ug/l applied to the TOXICITY water quality objective.
ethyl benzene	< 0.5 ug/l	29 ug/l	USEPA taste and odor threshold, Federal Register 54(97):22064-22138; applied TASTE AND ODOR water quality objective. There is a less stringent CA MCL of 580 ug/l.
xylenes	< 0.5 ug/l	17 ug/l	USEPA taste and odor threshold, Federal Register 54(97):22064-22138; applied TASTE AND ODOR water quality objective. There is a less stringent CA MCL of 1750 ug/l.

CHEMICAL	BACKGROUND LEVEL	WATER QUALITY OBJECTIVE	REFERENCE FOR OBJECTIVE
di-isopropyl ether (DIPE) ethyl tertiary butyl ether (ETBE) tertiary amyl methyl ether (TAME)	< 5 ug/l	N/A	Undergoing scientific review
Methyl tertiary butyl ether (MtBE)	< 5 ug/l	5 ug/l	Taste and odor threshold. The California Office of Environmental Health Hazard Assessment has established a public health goal of 13 ug/l.

14. Reasonable costs incurred by Regional Water Board staff in overseeing cleanup or abatement activities are reimbursable under Section 13304 of the California Water Code.

15. 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 the California Environmental Quality Act (Public Resources Code, Section 21000 et. seq.) in accordance with Section 15308 and 15321, Chapter 3, Title 14 of the California Code of Regulations.

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 and shall comply with the provisions of this Order:

1. The dischargers shall conduct all work under the direction of a California registered engineer or geologist experienced in pollution investigation and cleanup in accordance with all local ordinances. All necessary permits shall be obtained.

2. By October 31, 2000, the dischargers shall submit a public participation plan including, but not limited to the following items:

   - A description of the purpose of the public participation plan and brief summary of the site history;
   - Background information on the site and overview of the demographics of the nearby community;
   - Summary of community issues or concerns expressed during interviews or other information gathering efforts;
   - List activities to be conducted to accomplish public involvement with the project as well as personnel who will implement the public participation plan;
   - Outline schedule for activities to be conducted at the site; and

- List references used to develop the public participation plan.

3. By December 1, 2000, the dischargers shall submit a feasibility study and remedial action plan (FS/RAP) evaluating all appropriate cleanup and abatement alternatives for the site and describing the preferred remedies to address final soil and groundwater cleanup. The FS/RAP must include a summary of the preferred alternatives for the lay audience.

4. The dischargers shall submit, within 45 days following Executive Officer concurrence with the FS/RAP, a corrective action plan and schedule for implementing the selected cleanup and abatement alternative(s), including development of a post-remedial action monitoring program.

5. The dischargers shall commence implementation of the remedial action plan within 45 days following concurrence by the Executive Officer, and no later than 30 days following receipt of required permits. The dischargers shall implement the corrective action plan in accordance with the schedule concurred with by the Executive Officer.

6. The dischargers shall comply with Provisions of the attached Monitoring and Reporting Program Order No. R1-2000-67 and shall submit quarterly reports detailing their progress to comply with the provisions of this Order on the 15th day of the month following the end of each quarter in accordance with the following schedule:

Reporting Period	Due Date
May, June, July	August 15
August, September, October	November 15
November, December, January	February 15
February, March, April	May 15

7. The dischargers shall promptly pay in accordance with the invoicing instructions all invoices for Regional Water Board oversight.

8. If, for any reason, the dischargers are unable to perform any activity or submit any documentation in compliance with the work schedule submitted pursuant to this Order and approved by the Executive Officer, the discharger may request, in writing, an extension of the time as specified. The extension request shall include justification for this delay. An extension may be granted for good cause, in which case this Order will be accordingly revised.

Ordered by _____

Lee A. Michlin
Executive Officer

September 8, 2000

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