



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

November 13, 2012

VIA CERTIFIED MAIL & EMAIL

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Dear Messrs. Duchesneau, Dintzer, Wyatt, Berchtold, Hunsucker, and Weiner and Ms. Schmall:

**PERCHLORATE CONTAMINATION AT THE 160-ACRE SITE IN THE RIALTO AREA:
NOTICE OF PROPOSED RESOLUTION AUTHORIZING ENTRY INTO SETTLEMENT
AGREEMENTS AND REQUEST FOR COMMENTS
SWRCB/OCC FILE A-1824**

The State Water Resources Control Board (State Water Board) anticipates considering a proposed resolution on December 4, 2012, that concerns perchlorate and other contamination in the Rialto-Colton groundwater basin. The proposed resolution would authorize the Chief Deputy Director of the State Water Board to approve, subject to his satisfaction, or to negotiate and execute tentative settlement agreements with a number of the potentially responsible parties. The tentative settlement agreements will provide: (1) the interim and final remedies that will be implemented and funded; (2) descriptions of any additional work required to be completed to restore the Rialto-Colton groundwater basin, (3) the identification of the responsible parties and funding sources for the additional work and, (4) a finalization of all

certain claims pursuant to the federal Clean Water Act, and the Water Code resulting as a result of the contamination from the 160-acre site in Rialto.¹

The Santa Ana Regional Water Quality Control Board (Santa Ana Water Board) recently approved a settlement agreement with some of the potentially responsible parties. The State Water Board is requesting the public's input on the tentative settlement agreements.

Background

Since 2002, the Santa Ana Water Board has been conducting an investigation of groundwater contamination in the area of the City of Rialto. A focus of the investigation has been facilities located on the 160-acre Site. The Santa Ana Water Board Executive Officer issued a Cleanup and Abatement Order for the site on February 8, 2005.

In Order WQ 2008-0004, the State Water Board commenced review of actions and inactions of the Santa Ana Water Board concerning the 160-acre site in Rialto. Hearing notices and background information from that proceeding can be found at: http://www.waterboards.ca.gov/public_notices/petitions/water_quality/a1824rialto.shtml. The State Water Board's review was temporarily stayed by order of the Superior Court of the County of Los Angeles pending resolution of certain legal issues. In response to a peremptory writ of mandate, the State Water Board subsequently issued Order WQ 2009-0004, which was likewise challenged by various parties. Judicial challenges to the State Water Board's orders commencing own motion review have been resolved.

On July 17, 2012, the State Water Board heard an informational item to receive an update on legal and technical developments that have transpired since February 2007. Representatives from several of the potentially responsible parties, the Santa Ana Water Board, and the United States Environmental Protection Agency stated that they had tentatively settled the matter and would be submitting draft consent decrees to the United States District Court, Central District of California (U.S. District Court).

Currently, one draft consent decree has been lodged with the U.S. District Court and two others are pending. Each draft consent decree contemplates a corresponding administrative settlement agreement with the State Water Board. Once these settlement agreements are finalized and executed, the corresponding draft consent decree will be lodged with the U.S. District Court. Afterwards, the consent decree will be available for public comment after being noticed in the Federal Register. Once comments are received, the U.S. District Court will consider entering the consent decrees and, if approved by the court, the terms will become binding.

Nature of the Proposed Resolution

The State Water Board encourages the potential parties and interested persons to submit written comments and policy statements concerning the form and content of the tentative administrative settlement agreements and proposed resolution. The first of the three draft settlement agreements is attached to this letter. Comments and recommendations to the State Water Board may address the specific requirements of the attached draft settlement agreements and any terms and conditions that should appear in the administrative settlement agreements. Additionally, comments should address whether and under what conditions the State Water Board should settle this matter with the potentially responsible parties.

¹ The 160-acre site in question is located in the southwest quarter of Section 21, Township 1 North, Range 5 West, San Bernardino Base and Meridian in the City of Rialto, County of San Bernardino, State of California.

Prohibition on Ex Parte Communications

Because SWRCB/OCC File A-1824 is still an adjudicative proceeding pending before the State Water Board, the prohibition on ex parte communications with State Water Board members remains in effect. The Administrative Procedure Act prohibits communications to the State Water Board members pertaining to any issue in the SWRCB/OCC File A-1824 proceedings without notice and an opportunity for all parties to participate in the communication.

All designated parties in SWRCB/OCC File A-1824 have been copied on this letter. The current designated parties should serve one another copies of any submittals pursuant to this notice. All comment letters received from other interested persons will be posted on the State Water Board's website prior to the December 4, 2012 meeting and, therefore, available to the designated parties and interested persons in SWRCB/OCC File A-1824.

December 4, 2012 Meeting and Submittal of Comments

The item will be heard by the State Water Board on *Tuesday, December 4, 2012*. The meeting commences at 9:00 a.m. and will be in the Coastal Hearing Room on the Second Floor of the Cal/EPA Building, 1001 I Street, Sacramento, California. You will separately receive an agenda for this meeting.

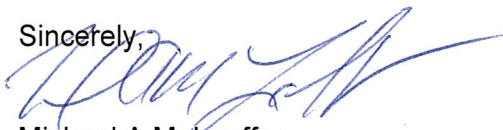
The Santa Ana Water Board, Goodrich Corporation, Pyro Spectaculars, Inc., the Emhart Entities, and the City of Rialto will each be allowed fifteen (10) minutes for oral comment with additional time for questions from the State Water Board members. Other interested persons will be allotted a lesser amount of time to address the State Water Board. Requests for additional time should be submitted in writing to James Herink by 12:00 noon, Wednesday, November 21, 2012.

Written comments and any other materials to be presented at the workshop, including power point and other visual displays, must be received by **12:00 noon, Wednesday, November 28, 2012**. Please indicate in the subject line, comments to A-1824—July 17 Board Meeting. Policy statements must be addressed to:

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If there are any questions or comments, please contact James Herink, Senior Staff Counsel, in the Office of Chief Counsel, at (916) 341-5150 or email jherink@waterboards.ca.gov.

Sincerely,



Michael A.M. Lauffer
Chief Counsel

cc: See next page

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