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15 Attorneys for Respondent  
16 Goodrich Corporation

17 CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

18 IN THE MATTER OF PERCHLORATE  
19 CONTAMINATION AT A 160-ACRE  
20 SITE IN THE RIALTO AREA  
21 (SWRCB/OCC FILE A-1824)

Case No.: SWRCB/OCC FILE A-1824

**MOTION AND OBJECTION NO. 12**

**GOODRICH CORPORATION'S NOTICE  
OF MOTION, MOTION, AND  
OBJECTIONS REGARDING USE OF  
REBUTTAL**

22 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD IN THIS ACTION:

23 PLEASE TAKE NOTICE that on a day and time to be determined, before the  
24 Chair of the State Water Resources Control Board, Tam Doduc, Designated Party  
25 Goodrich Corporation ("Goodrich") will and hereby does move the Hearing Officer to  
26 clarify the parameters of rebuttal set forth in the September 23, 2007, Notice of Public  
27 Hearing in this matter (the "Hearing Notice").


28 This motion is made on the grounds that the rebuttal provisions in the Hearing  
Notice are grossly vague and ambiguous.

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Goodrich also hereby objects to the Hearing Notice and the procedures set forth therein on the grounds stated herein.

This motion is based upon this Notice, the attached written Memorandum of Points and Authorities, and such other evidence as may be presented at or prior to the hearing on this matter.

Dated: March 5, 2007

Respectfully submitted,  
MANATT, PHELPS & PHILLIPS, LLP  
GIBSON, DUNN & CRUTCHER, LLP  
  
By: \_\_\_\_\_  
Peter R. Duchesneau  
*Attorneys for Respondent*  
GOODRICH CORPORATION

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## MEMORANDUM OF POINTS & AUTHORITIES

Goodrich Corporation ("Goodrich") hereby respectfully requests that the hearing officer clarify the parameters of "rebuttal" as mentioned on pages four and five of the Notice of Public Hearing (the "Hearing Notice"), which are vague and ambiguous and therefore prejudicial to Goodrich's right to a fair hearing.

Several questions arise when considering the potential use of rebuttal in pre-hearing submittals and at the hearing. Among others, these questions include:


- Is rebuttal argument meant to substitute for redirect and re-cross examination as provided in title 23 California Code of Regulations section 648.5(a)(7)?
- What is the permissible scope of rebuttal argument?
- Can a party put on *new evidence* to rebut the evidence of another party?
- Can witnesses be called during rebuttal argument?
  - If so, can witnesses that did not previously testify be called?
  - Can witnesses *not previously identified* be called?

Because it is not clear from the Notice of Public Hearing, clarification of the proper usage of rebuttal argument would aid all parties to this matter. In particular, Goodrich moves for the following:

1. That there be no page limitations for written rebuttals;
2. That new evidence may be used to rebut evidence raised by another party in their written submissions;
3. That new evidence, including calling new witnesses, may be used to rebut new evidence and issues raised by another party at the hearing; and
4. That additional time be afforded for "rebuttal" at the hearing.

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Dated: March 5, 2007

Respectfully submitted,  
MANATT, PHELPS & PHILLIPS, LLP  
GIBSON, DUNN & CRUTCHER, LLP  
  
By:   
Peter R. Duchesneau  
*Attorneys for Respondent*  
GOODRICH CORPORATION

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