

State Water Resources Control Board

May 31, 2012

VIA CERTIFIED MAIL & EMAIL

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Dear Messrs. Duchesneau, Dintzer, Wyatt, Berchtold, Hunsucker, and Sommer:

**PERCHLORATE CONTAMINATION AT THE 160-ACRE SITE IN THE RIALTO AREA:
NOTICE OF INFORMATIONAL ITEM AND REQUEST FOR COMMENTS
SWRCB/OCC FILE A-1824**

The State Water Resources Control Board (State Water Board) anticipates scheduling an informational item on July 17, 2012, concerning perchlorate contamination in the Rialto area. The primary purpose of the informational item will be for other public agencies, potentially responsible parties, and affected communities to provide background information and a status update to the State Water Board members. The informational meeting will not be an evidentiary hearing, is not designed to be an adversarial proceeding, and the oral comments will not be under oath or subject to cross examination.

Background

Since 2002, the Santa Ana Regional Water Quality Control Board (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 a 160-acre site in Rialto.¹ The

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.

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.

Given the passage of time, the State Water Board is scheduling an informational item to allow interested persons to provide background information and status updates. The purpose of this letter is to provide notice and allow potential parties in this matter an opportunity to address the State Water Board regarding the ongoing efforts to investigate and remediate perchlorate contamination in the Rialto-Colton groundwater basin.

Nature of Informational Meeting

The State Water Board encourages the potential parties and interested persons to submit written policy statements and an update on developments occurring since the State Water Board commenced its review. Particular questions that the State Water Board is interested in having interested persons address include:

- What relevant legal and technical developments have occurred concerning the 160-acre site or the Rialto-Colton groundwater basin since February 2007?
- Besides legal and technical developments, since February 2007 have there been any other developments concerning the 160-acre site or the Rialto-Colton groundwater basin that the State Water Board should be aware of?
- Should the State Water Board resume the evidentiary hearings as contemplated by State Water Board Orders WQ 2008-0004 and WQ 2009-0004 initiating own motion review?
- Is there any benefit to remanding the matter back to the Santa Ana Water Board without an evidentiary hearing by the State Water Board?
- Should any proceeding before the State Water Board remain limited to the 160-acre site or should it be expanded geographically? If the proceeding should be expanded, to what extent?
- Should there be additional potentially responsible parties added to the existing proceeding?

This preceding list of questions is not intended to limit the subject or content of any policy statements submitted to the State Water Board, but is merely intended to identify current State Water Board concerns in this matter. This item will be an informational item only and is not evidentiary in nature. While the written and oral comments may inform the State Water Board's decision on how to proceed, any comments would need to be resubmitted, subject to limitations on admissibility and weight, in any subsequent adjudicative proceeding.

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 July 17, 2012 meeting and, therefore, available to the designated parties and interested persons in SWRCB/OCC File A-1824.

July 17, 2012 Meeting and Submittal of Comments

The informational item will be heard by the State Water Board on *Tuesday, July 17, 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 State Water Board encourages similarly situated parties to present their positions as part of panel presentations. I encourage the designated parties to discuss amongst themselves the best way to present their views in an efficient and educational manner. The timing of panel presentations can be coordinated with James Herink, whose contact information is below.

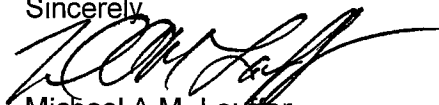
Absent an agreement on panel presentations, the Santa Ana Water Board, Goodrich Corporation, Pyro Spectaculars, Inc., the Emhart Entities, and the City of Rialto will each be allowed fifteen (15) minutes for oral comment with additional time for questions from the State Water Board members. Other interested 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, July 11, 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, July 11, 2012**. The parties are encouraged to limit their written policy statements to a maximum of thirty-five (35) pages in length, excluding attachments. 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, Staff Counsel, in the Office of Chief Counsel, at (916) 341-5150 or email jherink@waterboards.ca.gov.

Sincerely,



Michael A.M. Lauffer
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cc: See next page

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