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Attorneys for Petitioner
VERIZON CALIFORNIA INC.

**STATE OF CALIFORNIA**

**STATE WATER RESOURCES CONTROL BOARD**

| | |
|---|---|
| In the Matter of Los Angeles Regional Water Quality Control Board, Section 13267 Order - Verizon Facility, Santa Monica California | No.<br>**PETITION FOR REVIEW, REQUEST FOR STAY AND REQUEST FOR HEARING** |

This petition for review and request for stay and a hearing is respectfully submitted to the California Water Resources Control Board ("State Board") on behalf of Verizon California Inc. ("Verizon" or "Petitioner") pursuant to the California Water Code ("Water Code") Section 13320(a) and California Code of Regulations ("CCR"), Title 23, Section 2050, *et seq.*, for review of a Water Code Section 13267 order entitled "Conditional Approval of Work Plan for Groundwater Assessment, Pursuant to California Water Code Section 13267 Order - Verizon Santa Monica Plant Yard", dated September 4, 2008 and issued by the Executive Officer of the California Regional Water Quality Control Board, Los Angeles Region ("Regional Board") regarding the Verizon Santa Monica Plant Yard, located at 2902 Exposition Blvd, Santa Monica, California (the "Site") (the "September 4th Order"). A copy of the September 4th Order is attached hereto as Exhibit A.

The September 4th Order instructs that Petitioner, among other things, conduct quarterly groundwater monitoring of eight (8) groundwater wells, submit a workplan to "fully assess the

lateral and vertical distribution of CVOCS on and adjacent to [its] property" (which the Regional Board has pre-determined to require the installation of additional off-site groundwater wells) and submit a work plan to "fully assess the lateral and vertical distribution of VOCs on and adjacent to [its] property." The Regional Board issued this order despite the fact that there is no credible evidence that the property in question is a source of groundwater contamination, and in fact, all of the evidence indicates that the property is not and cannot be a source of the area groundwater contamination. The September 4th Order significantly changes a proposed Work Plan for Additional Site Assessment that was prepared by Malcolm Pirnie and submitted on behalf of Verizon on July 31, 2008 ("Work Plan"), a copy of which is attached hereto as Exhibit B. The Work Plan was prepared in response to a separate Water Code Section 13267 Order issued to Verizon by the Regional Board on May 19th, 2008 (the "May 19th Order"), and after discussion with Regional Board staff in a meeting on July 24, 2008. A copy of the May 19th Order is attached hereto as Exhibit C.

Since the issuance of the September 4th Order, the Petitioner and the Regional Board have engaged in ongoing communications regarding this matter. Petitioner respectfully requests that the State Board hold this Petition in abeyance to allow the Petitioner and the Regional Board additional time to see if Verizon and the Regional Board can reach agreement on the proper scope of an investigation under the September 4th Order and the May 19th Order.

Verizon concurrently, but separately, seeks a stay of the September 4th Order pursuant to California Water Code Section 13321 and CCR, Title 23, Section 2053. The September 4th Order requires Verizon to perform actions which are the subject of the Petition and Verizon will suffer substantial harm if the stay is not granted. No substantial harm will be incurred by any other interested person, or the public, if the stay is granted, and there are substantial questions of fact and law regarding the September 4th Order and its validity. The facts supporting Petitioner's request for a stay are set out in more detail in the accompanying Declaration of Zachary Feingold ("Feingold Decl.")

## I. Name And Address of Petitioner

Petitioner may be contacted through counsel of record: Martin J. ("Kelly") McTigue, O'Melveny & Myers, LLP, 400 South Hope Street, Los Angeles, CA 90071-2899, (213) 430-6297, (213) 430-6407 (fax), kmctigue@omm.com.

## II. Specific Action or Inaction for Which This Petition for Review is Sought

The Regional Board action that is the subject of this Petition involves the issuance by the Executive Officer of a Water Code Section 13267 order in the form of a "Conditional Approval" of a proposed Work Plan. The Regional Board exceeded its authority in issuing September 4th Order, as the September 4th Order unlawfully compels Petitioner to undertake all assessment, monitoring, and reporting of the effects of trichloroethene (TCE) in groundwater below the Site and in the vicinity of the Site, despite overwhelming evidence that the Site is not a source of the groundwater contamination and is down gradient from impacted supply wells. The Regional Board also violated Section 13267 by failing to direct the order to The Boeing Company (successor to McDonnell Douglas), the party the Regional Board believes actually was responsible for the alleged historic contamination.

## III. The Date the Regional Board Acted or Failed to Act

The September 4th Order was dated September 4, 2008, but was received by Petitioner on September 9, 2008.

## IV. Statement of the Reasons the Action is Inappropriate and Improper

The issues raised in this Petition were raised, in part, to the Regional Board staff and management in a meeting on July 24, 2008. The September 4th Order is improper, inappropriate and exceeds the authority of the Regional Board, for the following reasons:

A. The September 4th Order is not supported by evidence in the record, and in fact, is contrary to such evidence.

B. The September 4th Order exceeds the Regional Board's authority because the balance of evidence overwhelmingly supports a finding that the Petitioner is not responsible for the TCE contamination.

C. The costs of the investigation required by the September 4th Order outweigh the anticipated benefits.

D. The September 4th Order fails to identify other potential dischargers, several of which are known to the Regional Board.

E. The September 4th Order was issued without hearing or opportunity to respond. The Petitioner was afforded no opportunity to formally introduce evidence on the record to refute the Executive Officer's assertion that the contamination originated from operations on the Site by a previous owner.

F. The September 4th Order improperly identifies the design, location, and procedures for conducting groundwater monitoring and the manner in which compliance with the Order may be achieved, in violation of Water Code Section 13360.

G. The September 4th Order is not supported by evidence in the record.

H. The September 4th Order requires Petitioner to submit technical reports and perform investigations under arbitrary and capricious time frames.

I. The September 4th Order is vague.

## V. Petitioner is Aggrieved

Petitioner is aggrieved in that the Order unlawfully compels Petitioner to assume all obligations, including legal, financial and technical responsibilities, for the investigation of a complex groundwater TCE plume despite the fact that the evidence indicates the Petitioner's property is not a source of the TCE contamination. Petitioner is also aggrieved in that the Order is directed solely to Petitioner - and not to The Boeing Company - the party alleged by the Regional Board to have caused the contamination.

Petitioner has already expended significant resources voluntarily investigating the Site. In the past several years, Verizon has spent at least $135,000 in site investigation costs. *See* Feingold Decl. at ¶ 6. In addition, Petitioner's predecessor (GTE) and the City of Santa Monica conducted significant investigation of the soil and groundwater. To date the Site has been investigated by at least six separate environmental consultants, who either conducted on site investigations or reviewed historical records. Since 1980, more than 130 borings have been

advanced and more than 80 soil samples, 70 soil gas samples, and 40 groundwater samples have been collected from the property. Each of the six environmental consultants, the United States Environmental Protection Agency ("EPA") and the Regional Board have previously concluded that the Site does not appear to be a potential source for the TCE contamination. *See* "Historical Site Summary," July 2008, by Malcolm Pirnie, attached as Exhibit A to the Feingold Decl. Despite this significant evidence that the Site is not a source of the area groundwater contamination, Petitioner is forced to spend considerable sums of money to conduct the comprehensive investigation or be faced with up to $1,000 per day penalties. The weight of evidence does not warrant the continued expansive investigation set forth in the September 4th Order.

Furthermore, the Petitioner has been aggrieved by the process used by the Executive Officer to date. Neither the May 19th Order nor the September 4th Order sets forth the evidence relied on by the Regional Board in support of this action and there has been no formal hearing or development of evidentiary records. This leaves the Petitioner with no meaningful ability to evaluate an evidentiary record on which to seek review of the September 4th Order. For all of these reasons, Petitioner's legal and constitutional rights have been violated.

## VI. Petitioner's Request for Action by the State Board

In light of ongoing informal discussions between the Petitioner and the Executive Officer, Petitioner respectfully requests that the State Board hold this Petition in abeyance, thereby allowing time for Verizon and the Executive Officer an opportunity to continue negotiations. Verizon respectfully requests a Stay of the September 4th Order pending the completion of negotiations between Verizon and the Executive Officer, or in the event that Verizon activates this Petition in the future, pending the completion of a review on the merits of this Petition by the State Board.

Petitioner respectfully requests that the State Board (A) modify the Executive Officer's September 4th Order so that it approves the Work Plan submitted by Verizon without change, or (B) set aside the Executive Officer's September 4th Order and remand the matter to the Regional Board with directions to approve the Work Plan as originally submitted by Verizon. In the

alternative, the Petitioner requests that the State Board hold a full and impartial evidentiary hearing regarding the permissibility of the Executive Officer's September 4th Order and the proper scope of a work plan under the September 4th Order and the May 19th Order.

## VII. Statement of Points and Authorities

The September 4th Order is defective and invalid for both substantive and procedural reasons. It exceeds the authority of the Regional Board and must be struck down.

### A. The Evidence Strongly Supports a Finding That the Petitioner is Not Responsible for the TCE Contamination

The September 4th Order unlawfully imposes obligations on Verizon to conduct excessive and unnecessary groundwater investigation despite a tide of evidence indicating that the property is not a source of the TCE groundwater contamination. The Petitioner conducted an exhaustive review of historical environmental records of the site, which included extensive soil, soil gas and groundwater sampling, summarized in Section V above. These investigative records, combined with the local geology and hydrogeology of the site, can only support a conclusion that the Site is not a source of the TCE groundwater contamination. For example, after conducting several of its own investigations of the environmental conditions at the property in 1996, the EPA concluded that the property did not contribute to the regional groundwater TCE contamination. *See* URS, CERCLA Site Inspection, McDonnell Douglas Aircraft Facility, 2902-3303 Exposition Boulevard, Santa Monica, California, Los Angeles County, October 31, 1996, a copy of which is attached as Exhibit B to the Feingold Decl. From 1998 through 2004 the Regional Board required prior property owners to conduct yet a further series of comprehensive investigations of the property all of which also reached the same conclusion -- the property was not a source of TCE groundwater contamination, a conclusion that the Regional Board agreed with according to the reports of those investigations. *See* CDM, Data Gap Technical Memorandum, Verizon Services Group, Santa Monica Facility, 2902 Santa Monica, California, April 11, 2002, a copy of which is attached as Exhibit C to the Feingold Decl.

In stark contrast to this overwhelmingly, extensive and consistent evidence that the property is not a source of the TCE groundwater contamination, the Regional Board's only

purported "support" for the September 4th Order is an improbable theory that has contaminants that have not yet been discovered on the property (despite 130 borings and 150 soil and soil gas samples on the property) migrating through the vadose zone without leaving any trace and then migrating against the groundwater flow to impact the upgradient and cross gradient City of Santa Monica wells. While Water Code Section 13267 does provide broad authority to the Regional Board to require investigations of contaminated properties, this authority is not without limits. The September 4th Order far exceeds the limits of the Regional Board's authority to require investigations.

### B. The Regional Board Has No Evidence To Support Its Theory And The Assumptions Underlying Its Theory Are Contrary To The Evidence

The Regional Board has advanced an unsupported theory to explain how the TCE plume allegedly traveled upgradient from the Site. The Regional Board's theory can be summarized as follows: (1) historical operations of a previous owner (pre-1965) caused an on-site release of TCE, (2) that theoretical TCE release supposedly reached groundwater, (3) however, the evidence of that theoretical TCE release in the vadose zone and groundwater was erased by biodegradation and other remediation associated with a subsequent fuel release on the Site before 1965, (4) the pumping of City of Santa Monica wells SM-3 and SM-4 caused the groundwater flow direction to change thereby drawing the TCE toward the city wells when the supply wells were both being pumped, and (5) then supposedly the temporary shutdown of the wells must have allowed the groundwater gradient to again reverse. It is incumbent on the Regional Board to provide substantial evidence supporting this theory before imposing on the Petitioner the burden of disproving it. Section 13267 specifically requires that the Regional Board "provide...a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports." Cal. Water Code §13267(b)(1). Not only has the Regional Board identified no evidence, let alone substantial evidence, to support its unusual theory, but the Regional Board's theory is also clearly contrary to the evidence.

First, the Regional Board alleges that a TCE release occurred as a result of historical aircraft manufacturing processes. May 19th Order, p. 1. However, there is no indication of such

an on-site release. A majority of the Site has been covered by concrete or asphalt since McDonnell Douglas began operations at the Site in 1947. *See* Malcolm Pirnie report at 4-1. This surface cap would serve to restrict volatilization of any TCE and limit downward migration of TCE due to rainwater infiltration. Thus, if Site operations resulted in a significant enough release to be the cause of the current groundwater TCE contamination, residual concentrations in soil and soil gas should be evident in the alleged source areas. Eighty (80) soil samples and 70 soil gas samples from the site have been collected and analyzed, and no such sources areas were identified.

Second, the Regional Board's bio-remediation theory for why there is no evidence of an on-site release does not match up with the facts. Co-metabolism of TCE should result in the production of cis, DCE and/or vinyl chloride ("VC") as daughter products of the breakdown of TCE. However, these daughter products are not prevalent in the subsurface beneath the Site.

Third, there is agreement that the TCE plume is concentrated offsite to the north and upgradient of the Site. The Executive Officer plainly acknowledged this in the May 19th Order: "The current dissolved TCE plume increases in concentration upgradient; away from your site. This characteristic would normally be interpreted as representing a dissolved plume originating from an offsite source." May 19th Order, p. 1. The Regional Board, however, tries to avoid this critical fact by surmising a reversal of groundwater flow direction, theorizing that pumping from the City of Santa Monica wells SM-3 and SM-4 reversed the flow direction and then the wells' shutdown allowed the flow to return to its original direction. However, the facts contradict this point as well. The City of Santa Monica well SM-3, which is northeast of the Site, was installed in 1960. If the pumping of that well changed the groundwater flow, the flow would have been to the northeast, not the north as theorized by the Regional Board. Well SM-4 was installed to the north of the Site in the early 1980s. However, groundwater flow directions and gradients measured in the mid 1980s, 1990s and 2000s consistently indicate a southwest flow direction in the semiperched aquifer, clearly contradicting any theory that the combined pumping of SM-3 and SM-4 caused a flow direction reversal. Despite the Regional Board's desire to hypothesize a flow direction reversal scenario, the fact remains that the historical Site and regional data since

the 1980s have not identified any such flow direction reversal. Finally, in 2002 the City of Santa Monica returned SM-3 and SM-4 to service, after a short three-month temporary shutdown, and yet the groundwater flow direction remains to the southwest to date. The lack of a flow direction reversal is also consistent with the observed migration to the south of an on-site petroleum hydrocarbon release in 1985.

Thus, the evidence clearly indicates that (1) the source of the TCE groundwater contamination to the north of the Site can only be an off-site source to the north of the Site, and (2) Petitioner is not a discharger of the groundwater contamination the Regional Boards seeks to have Petitioner investigate.

The State Board has ruled that when the balance of evidence plainly indicates that the source of contamination is offsite and that a party is not a "discharger," the Regional Board's authority to request further investigation ceases. *See in re: Chevron Products Co.*, Order WQO 2004-005 (May 20, 2004). In that case, a Regional Board sought to require Chevron to conduct further investigation despite the fact that the evidence collected supported a finding that the source of contamination was offsite and upgradient to the site. The State Board ruled for Chevron, finding that where the balance of the evidence indicates that the site is downgradient from the center of contamination, the Regional Board in that case could not require Chevron to conduct further investigation or remediation of the discharges. For the same reasons, this Regional Board may not order Verizon to investigate groundwater contamination when Verizon's Site is downgradient from the center of the regional TCE plume.

**C. <u>The Costs of the Investigation Exceed the Benefits</u>**

The September 4th Order lays out such an extensive groundwater monitoring program that it exceeds the scope of a an appropriate investigation under Section 13267, which specifies that "[t]he burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports." Cal. Water Code § 13267(b)(1). In response to the initial May 19th Order, the Petitioner proposed a Work Plan to conduct one round of groundwater monitoring using eight existing monitoring wells, at a modest of cost of approximately $16,000. *See* Feingold Decl. ¶ 7.

In response, the September 4th Order outlined an extensive groundwater monitoring program, including a minimum of quarterly groundwater testing and a requirement that the Petitioner prepare a second work plan for additional groundwater assessment "to fully assess the lateral and vertical distribution of CVOCs on and adjacent to your property." The second work plan would require the digging of numerous additional monitoring wells and increase the cost in excess of several hundred thousand dollars.

The disproportionate nature of the September 4th Order becomes even more start when considered against the fact that the Petitioner (and its predecessor, GTE) have been looking for TCE contamination at this Site since 1985 at the request of the Regional Board even though neither entity used TCE on the Site. Throughout that entire time period, there has been clear agreement from all parties that the Petitioner's own activities (or those of its predecessor) are not the source of the contamination. The result of this previous investigation is a clear and robust record indicating that the Site is not the source of the TCE.

In light of the money already spent to date on investigating the site, and the results of that investigation, the additional work sought by the Regional Board in the September 4th Order is unwarranted and excessive.

**D. <u>The Regional Board Failed to Identify Other Known Responsible Parties</u>**

Petitioner has been singled out by the Regional Board as the sole party responsible for the plume, despite findings and substantial evidence to the contrary. In fact, the Regional Board's entire theory of liability is that a previous owner of the Site released the contaminants through "historical aircraft manufacturing or other activities." May 19th Order, p. 1. Yet, the Regional Board has not imposed obligations on the previous owner to participate in the investigation. The Regional Board has an obligation to identify all known or suspected dischargers and require them each to participate in appropriate phases of investigation and remediation. *See Chevron*, n. 13.

**E. <u>The Regional Board's Failure to Identify any Supporting Evidence Denies Petitioner's Fundamental Rights to Due Process and Equal Protection</u>**

The September 4th Order was issued by the Executive Officer without hearing or opportunity to respond. Further, the Regional Board failed to present Petitioner with credible

evidence supporting the Executive Officer's position. Petitioner has been denied its fundamental rights of due process and equal protection and, as a consequence, has had imposed on it regulatory burdens that are unsupported by the requisite level and nexus of proof. As a result, and without relief from the State Board, Petitioner stands to bear what are tantamount to punitive costs and expenses.

### F. The September 4th Order Improperly Specified How the Petitioner Should Comply with the Order

The September 4th Order exceeds the scope of authority held by the Regional Board to the extent that it delineates the specific details of the investigation it demands Verizon complete. Under Water Code Section 13360, the Regional Board is prohibited from "specif[ing] the design, location, type of construction, or particular manner in which compliance may be had with" the September 4th Order. The September 4th Order seeks to usurp the right of Verizon to itself determine an appropriate work plan for investigation of the groundwater contamination. On July 31, 2008, following consultation with Regional Board staff, Verizon submitted the requested work plan. With the September 4th Order, the Regional Board seeks to radically change this work plan by specifying such details as the position of the sampling device and the frequency of the sampling, and by requiring the submission of a second work plan for additional groundwater assessment and has pre-judged that additional groundwater wells will be required. In doing so, the Executive Officer seeks control over the manner in which Verizon complies with the September 4th Order and the May 19th Order in contravention of Section 13360.

### G. The September 4th Order is Vague

The September 4th Order is improperly vague in several respects. First, it is unclear whether Petitioner is charged with investigating the lateral and vertical distribution of "VOCs" (as delineated in the May 19th Order and September 4th Order), or the distribution of "CVOCs", as identified in the September 4th Order. Second, the September 4th Order is for an indefinite time period. It requires that the Petitioner commence quarterly groundwater monitoring without identifying a definite ending date for the monitoring. Third, the September 4th Order does not indicate whether the assessment the Regional Board wants is limited to groundwater, as Petitioner

suspects is the case.

## VIII. List of Interested Persons

A list of "interested persons" is appended to the September 4th Order (Exhibit A).

## IX. Statement of Transmittal of Petition to the Regional Board

A copy of this Petition was transmitted to the Executive Officer of the Regional Board on October 3, 2008.

## X. State of the Administrative Record

To Petitioner's knowledge, no formal administrative record was prepared or reviewed by the Executive Officer prior to execution of the May 19th Order or the September 4th Order. The Executive Officer has not identified the evidentiary basis for its unsupported conclusion in the May 19th Order that "TCE and other related volatile organic compounds (VOCs) were released during painting, degreasing, and other activities related to historical aircraft manufacturing or other activities at the site".

Petitioner and prior Site owners have submitted to the Executive Officer voluminous records regarding the historical environmental activities and related investigations conducted at the Verizon site and the surrounding area. As noted above, these records consistently support a finding that the Verizon site does not appear to be a potential source for TCE contamination.

## XI. Substantive Issues Raised Before Regional Board

As described above, Petitioner raised some of these issues with Regional Board staff and management in a meeting on July 24, 2008. However, Petitioner has been denied the opportunity to review and/or challenge evidence relied on by the Executive Officer in support of the September 4th Order. Petitioner maintains it is without remedy unless the State Board grants this petition for review in concert with a Stay Order.

Dated: October 3, 2008

Respectfully submitted,

Martin J. McTigue
O'MELVENY & MYERS LLP
400 South Hope Street
Los Angeles, CA 90071-2899
Telephone: (213) 430-6297
Facsimile: (213) 430-6407

DC1:757997.5

# EXHIBIT A

# California Regional Water Quality Control Board
## Los Angeles Region

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: http://www.waterboards.ca.gov/losangeles

**Linda S. Adams**
*Cal/EPA Secretary*

**Arnold Schwarzenegger**
*Governor*


September 4, 2008

Mr. Zachary Feingold
Verizon
2849 Ficus Street
Pomona, CA 91766

**CONDITIONAL APPROVAL OF WORK PLAN FOR GROUNDWATER ASSESSMENT, PURSUANT TO CALIFORNIA WATER CODE SECTION 13267 ORDER – VERIZON SANTA MONICA PLANT YARD, 2902 EXPOSITION BLVD., SANTA MONICA, CALIFORNIA 91601 (SLIC NO. 130C, SITE ID NO. 2040258)**

Dear Mr. Feingold:

Los Angeles Regional Water Quality Control Board (Regional Water Board) staff have reviewed the July 2008, *Work Plan for Additional Assessment, Verizon California, Inc., Santa Monica Plant Yard, 2902 Exposition Boulevard, Santa Monica, California* (Work Plan). The Work Plan, prepared on your behalf by Malcolm Pirnie, Inc., was received by the Regional Water Board on August 8, 2008. The Work Plan was submitted as a first-step response to a Regional Water Board letter dated May 19, 2008, which required assessment of the chlorinated volatile organic compound (CVOC) plume in groundwater on and adjacent to the site.

Assessment related activities proposed in the Work Plan include:

1. Gauging, micropurging, and sampling groundwater from eight wells (MW-10, MW-11, MW-32, MW-36, MW-37, MW-43, MW-44, and MW-45). The groundwater samples will be analyzed for CVOCs using EPA Method 8260C.

2. Reviewing historical uses of nearby properties to identify potential off-site sources of CVOCs. This will include database research, aerial photograph review, property ownership review, and regulatory agency file review.

3. Preparation and submittal of a report summarizing the investigation methods and results, and including recommendations for further site-related activities addressing the requirements in the Regional Water Board's May 19, 2008 letter (copy attached).

The Work Plan is approved with the following conditions:

1. The Regional Water Board must be notified at least 10 days prior to the start of field work so that Regional Water Board staff may be on site during sampling to observe sampling methods and/or collect duplicate groundwater samples for independent analysis.

2. Pursuant to State Water Resources Control Board Resolution No. 92-49, under Water Code Section 13304, all technical documents submitted to the Regional Water Board must be reviewed and signed and/or stamped by a California professional geologist, a California professional certified specialty geologist, or a California registered civil engineer with at least five years

hydrogeologic experience. The Work Plan is not signed. You are required to submit either a Work Plan with the signature page or a stamped, signed, and punched signature page that Regional Water Board staff can readily insert into the Work Plan. The revised Work Plan, or signature page must be received at least 14 days prior to the start of field work.

3. The Regional Water Board requires a Health and Safety Plan (HASP) for all site work. No HASP was provided with the Work Plan. A Certified Industrial Hygienist approved HASP must be received by the Regional Water Board at least 14 days prior to the start of field work.

4. The inlet for the groundwater sampling device must be positioned at the approximate midpoint of the water column unless an alternate position is discussed with and approved by the Regional Water Board. The location of the sampler inlet is not clearly defined in the Work Plan.

5. The Regional Water Board requires quarterly groundwater monitoring to determine trends in CVOC concentrations and groundwater elevations. Quarterly monitoring, using the wells proposed in the Work Plan, and reporting shall comply with the following schedule:

| **Report Period** | **Report Due Date** |
|---|---|
| January – March | April 15th |
| April – June | July 15th |
| July – September | October 15th |
| October – December | January 15th |

The first report required under this monitoring program will be due **October 15, 2008**, and cover the period July through September 2008.

6. The Regional Water Board requires that you submit a work plan (technical report) for additional groundwater assessment to fully assess the lateral and vertical distribution of CVOCs on and adjacent to your property. The results of the groundwater monitoring proposed in the current Work Plan shall be used to plan additional groundwater sampling locations. The work plan for additional groundwater assessment must be received by the Regional Water Board no later than December 1, 2008.

The City of Santa Monica water supply wells in the Olympic Wellfield, located near the Verizon site, are impacted with volatile organic compounds (VOCs) including trichloroethene (TCE). Groundwater samples from monitoring wells at the Verizon site also contain TCE. Since the extent of each contaminated site's contribution to contaminants found in the area's groundwater is still being investigated, the Regional Board is reviewing groundwater data for all sites in the immediate vicinity of this Santa Monica industrial corridor, including yours.

Pursuant to section 13267 of the California Water Code, you are required to submit a work plan (technical report) to fully assess the lateral and vertical distribution of VOCs on and adjacent to your property. The work plan must be received by the Regional Water Board no later than **December 1, 2008**.

Pursuant to section 13268 of the California Water Code, failure to submit the required technical reports by the due dates may result in civil liability penalties administratively imposed by the Regional Water

Board in an amount up to one thousand dollars ($1,000) for each day the technical report are not received.

Any person aggrieved by this action of the Regional Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must *receive* the petition by 5:00 p.m., 30 days after the date of this Order, except that if the 30th day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: http://www.waterboards.ca.gov/public_notices/petitions/water_quality, or will be provided upon request.

**Please telephone Mr. Peter Raftery at (213) 576-6724 or email him at *praftery@waterboards.ca.gov* if you have any questions regarding this request.**

Sincerely,

Tracy J. Egoscue
Executive Officer

Attachment: Regional Water Board letter dated May 19, 2008

cc: John D. Ambrosio, Red Bull North America, Inc.
Eddie Arslanian. (for Hines)
Lisette Bauersachs, City of Santa Monica
Nancy Beresky (for Red Bull North America, Inc.)
Aldo Chaney, DTSC
David G. Dundas (for the Higgins Trusts)
James Farrow, Komex
Octavio Fernandez, MTV
Andrew Gray, City of Santa Monica
Stephen Johnson, LECG
Bruce Kaufman, Extra Space
Hillel Kellerman, 1655 Property LLC
Robert Krug, DTSC
Alva Libuser, New Roads School
Marc L. Luzatto, The Welk Group
Douglas H. Metzler (for Hines)
Robert Scott, Boeing Realty Corporation
Bruce Smiley (for 1655 Property LLC)
Craig Stewart, AMEC Geomatrix Consultants, Inc.
William Weaver, CDM
Martin Hamann (for 1655 Property LLC)

# EXHIBIT B

MALCOLM PIRNIE

INDEPENDENT ENVIRONMENTAL
ENGINEERS, SCIENTISTS
AND CONSULTANTS

Malcolm Pirnie, Inc.
2000 Powell Street, Suite 1180
Emeryville, CA 94608
T: 510.596.3060 F: 510.596.8855
www.pirnie.com

July 31, 2008

Mr. Zachary Feingold
Verizon California, Inc.
280 S. Locust Street
Pomona California 91766

**Subject: Transmittal of Work Plan for the Verizon California, Inc.
Santa Monica Plant Yard, 2902 Exposition Blvd., Santa Monica, California**

Dear Mr. Feingold:

Per your request, attached is a Work Plan describing the initial site investigation activities to be conducted at Verizon California, Inc.'s Santa Monica Plant Yard. The attached Work Plan was prepared in response to the request made by the Los Angeles Regional Water Quality Control Board in their May 19, 2008 letter to Verizon, and reiterated during the on-site meeting on July 24, 2008.

If you have any questions, please do not hesitate to call.

Sincerely,

**MALCOLM PIRNIE, INC.**

Todd Miller, CHG
Associate Hydrogeologist/Project Manager

c: Scott Sloan, Verizon
Marzi Sharfaei, Malcolm Pirnie
File
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**Verizon California, Inc.**
280 S. Locust Street • Pomona • CA

# Work Plan for Additional Site Assessment

## Verizon California, Inc.
## Santa Monica Plant Yard
## 2902 Exposition Boulevard
## Santa Monica, California

July 2008

Report Prepared By:

**Malcolm Pirnie, Inc.**

2000 Powell Street
Suite 1180
Emeryville, CA 94608
510-596-3060

4563026

MALCOLM PIRNIE

# Contents



# Figures



# Attachments

# 1. Introduction

This Work Plan is submitted by Malcolm Pirnie, Inc. (Malcolm Pirnie) on behalf of Verizon California, Inc. (Verizon) for their Santa Monica Plant Yard at 2902 Exposition Boulevard, Santa Monica, California (Site) to comply with the requirements in the Los Angeles Regional Water Quality Control Board's (Water Board's) May 19, 2008 letter to Verizon. In that letter, the Water Board required Verizon to submit a work plan to further define the extent of the dissolved chlorinated volatile organic compound (CVOC) plume in shallow groundwater beneath the Site. The scope of work presented herein was discussed with the Water Board in a meeting at the Site on July 24, 2008, and is intended to represent the first step in meeting the Water Board's objectives, as we agreed in the meeting.

# 2. Site Information

The following briefly describes the Site's history and current uses, as well as past environmental investigations conducted at and near the Site. Brief descriptions of the subsurface lithology and hydrogeologic conditions, and the nature and extent of the CVOC-impacted groundwater beneath the Site are also provided.

## 2.1. Site History

Activities associated with the investigation of the regional dissolved trichloroethene (TCE) plume in the vicinity of the Site started in 1980. On-site investigations started in 1996 after the Water Board issued a No Further Action determination for the on-site TPH release. Between 1996 and 2004 more than 130 borings were advanced on or in the vicinity of the Site, resulting in the collection of more than 80 soil, 70 soil gas, and 40 groundwater samples for analysis of CVOCs. Groundwater monitoring conducted since 1986 indicates that shallow groundwater beneath the Site flows generally to the southwest. Results of the investigations have not identified a source for the TCE identified in the shallow water-bearing unit beneath the Site. A detailed summary of the investigations conducted at and in the vicinity of the Site between 1994 and 2007 is provided in the *Historical Site Summary, Santa Monica Plant Yard, 2902 Exposition Boulevard, Santa Monica, California, July 2008*, prepared by Malcolm Pirnie on behalf of Verizon.

## 2.2. Site Use and Operations

The Site was owned by McDonnell Douglas and used as an aircraft manufacturing facility from 1947 to 1972. The Site was purchased by GTE in 1972 and used as a maintenance yard. Verizon purchased GTE in 2002, acquiring this Site in the transaction. The Site is currently used by Verizon as a warehouse and vehicle staging facility. Light maintenance and vehicle washing also occur on Site.

## 2.3. Geology and Hydrogeology

The near-surface lithology consists of alternating discontinuous lenses of moderately to highly permeable (sands and gravels) and low permeability (silts and clays) unconsolidated sediments to the maximum depths explored. Immediately beneath the Site, discontinuous lenses of silty and clayey sands have been reported to depths of 70

feet below ground surface (bgs); however, a majority of the soils in the upper 90 feet (maximum depth explored in the vicinity of the Site) consist of lower permeability sandy silts, silty clays and lean clays.

Shallow groundwater beneath the Site occurs in the Semiperched Aquifer (IT Corporation, 1985), which extends from approximately 30 to 60 feet bgs and flows primarily to the south-southwest. According to DWR Bulletin 104, the Semiperched Aquifer is underlain by the Bellflower Aquiclude, a regional low-permeable clay that is commonly greater than 50 feet thick (IT Corporation, 1985). In 2007, the groundwater flow direction in the Semiperched Aquifer beneath the Site ranged from northwest to south.

## 2.4. Nature and Extent of CVOC Contamination

Shallow groundwater beneath the Site has been impacted by CVOCs from an unidentified source. The primary constituent of concern is TCE. Site-related wells were last monitored in 2007 as part of a multi-site coordinated groundwater monitoring event. At that time, concentrations of TCE in the samples collected from the Site wells ranged from non-detect to 348 micrograms per liter (µg/L). However, sample results for TCE reported above the analytical method reporting limit were flagged with a "J" indicating the value reported by the laboratory was estimated but could not be confidently confirmed.

# 3. Scope of Work

The following describes the investigation activities proposed to be conducted on and in the vicinity of the Site.

## 3.1. Objectives and Scope of Proposed Activities

The objectives of this Work Plan are to evaluate the current concentrations of TCE, and other CVOCs, in shallow groundwater beneath the Site; and gain a better understanding of the history and potential sources of CVOCs at select nearby properties. Current groundwater quality impacts will be evaluated through the collection of representative groundwater samples. Potential nearby off-site sources will be evaluated through the review of historical information such as environmental database records, regulatory oversight agency files, and historical aerial photographs.

## 3.2. Groundwater Monitoring

One round of groundwater samples will be collected from the eight existing Site-related monitoring wells (Figure 1). Monitoring well sampling procedures will consist of the activities described below.

### 3.2.1. Depth to Water Measurements

Depth to water measurements will be collected prior to purging and sampling. Measurements will be collected using an electronic water level meter; readings will be measured at the location marked on each well casing.

### 3.2.2. Groundwater Samples

Groundwater samples will be collected using the low-flow sampling methodology. Each well will be purged a minimum of 1 liter of water prior to sampling. Water quality parameters (pH, temperature, specific conductance, dissolved oxygen and oxidation/reduction potential) will be monitored during purging using a flow-through cell. Once the water quality parameters have stabilized and the minimum purge volume has been evacuated from the well, a groundwater sample will be collected. Additional purging and sampling details are included as Appendix A.

### 3.2.3. Laboratory Analysis

Laboratory analyses will be conducted by Sun Star laboratories, a State-certified laboratory located in Tustin, California. Samples will be submitted for analysis of CVOCs following US Environmental Protection Agency (EPA) Method 8260C. Samples will be submitted to the laboratory within 24 hours of collection and analyzed on a standard 2-week turn-around time.

## 3.3. Off-Site Preliminary Evaluation

Historical site use and activities at nearby properties to the north of the Site will be researched to identify potential off-site sources for the TCE-impacted shallow groundwater beneath the Site. Records to be reviewed include the following sources.

### 3.3.1. Database Research

An Environmental Data Resources (EDR) report will be obtained for the Site vicinity to evaluate potentially unknown sources of CVOC contamination. Potential CVOC source sites identified during review of the EDR Report will be further evaluated during subsequent review of aerial photographs, property use records, and other agency files.

### 3.3.2. Historical Aerial Photograph Review

Historic aerial photographs back to the 1940's, as available, will be reviewed to evaluate the use of properties to the north of the Site. Those properties suspected as being used for industrial purposes or as a landfill will be further evaluated by reviewing available historic records and reports, as described below. Based on a preliminary review of off-site information the former Boeing Supercharger facility, former Metropolitan Transportation Authority property, the New Roads School and the unidentified City landfill No. 1 are sites of potential concern.

### 3.3.3. Historical Property Use Records

Historic property ownership and use records back to the 1940's, as available, will be researched to evaluate the potential for chemical releases to the environment from those sites identified from the aerial photo review as of potential concern. Ownership records commonly include the property owner and a description of the use of the property for each year researched.

### 3.3.4. Agency File Review

Available files from the Water Board, local Fire Department, and City of Santa Monica will be reviewed for those sites identified as a potential concern. The file review will focus on gathering information related to the use, storage and/or disposal of hazardous

chemicals, specifically chlorinated CVOCs. Environmental investigation and/or inspection records will also be reviewed. Other agencies may also be included in the research depending on the information gained from the local Certified Unified Program Agency.

## 3.4. Reporting

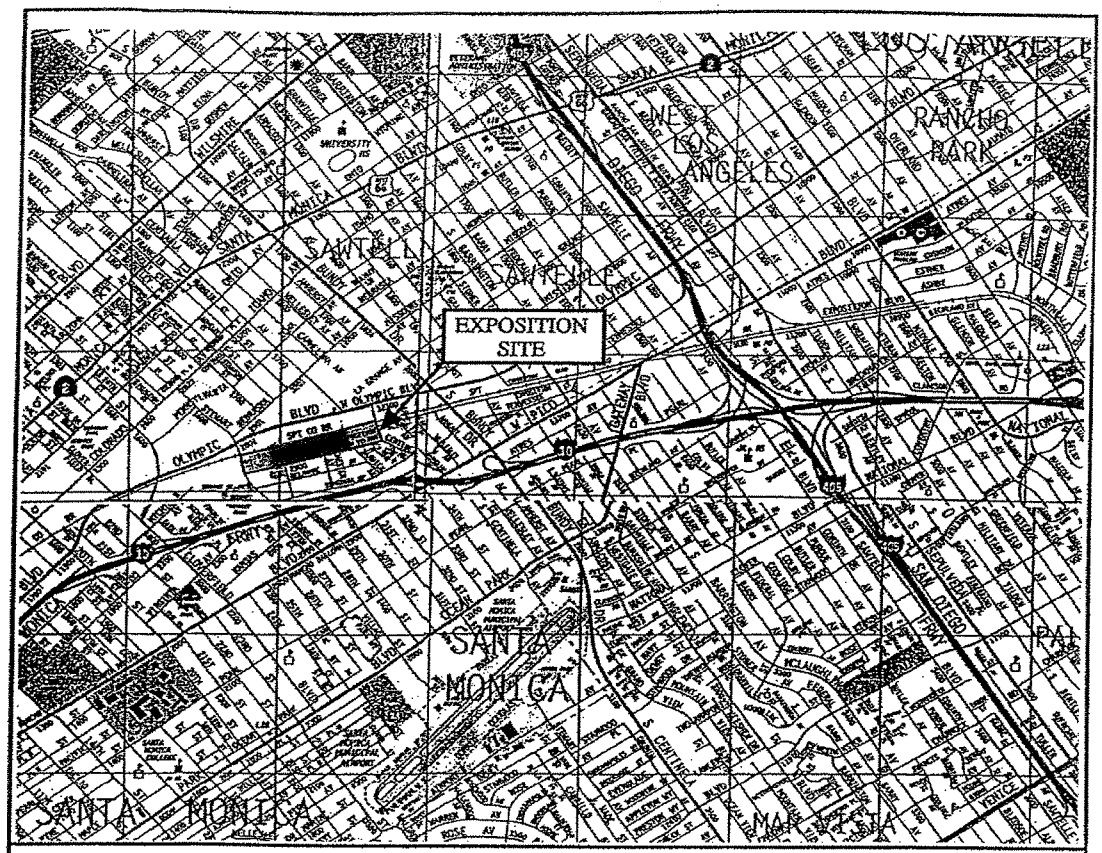
Following completion of the tasks described in Sections 3.1 and 3.2, a report will be prepared and submitted to the Water Board for approval. The report will document the investigations conducted on and in the vicinity of the Site, present the data collected, summarize results of the various investigations, and provide recommendations for further Site-related activities that will address the Water Board's objectives related to CVOC-impacted groundwater beneath and in the vicinity of the Site. The report will include field sampling information, copies of applicable aerial photographs and historical site records, and summary tables and figures posting the measured water quality data. The laboratory results summary table will include, to the extent possible, historic water quality information for the wells sampled.

The report will also provide additional information requested by the Water Board during the July 24, 2008 meeting, including a figure illustrating the historic distribution of benzene, toluene, ethylbenzene and total xylenes beneath the Site; a map illustrating historic Site-related groundwater monitoring and extraction wells; and a map illustrating the relative locations of the former USTs and vapor degreaser.

# 4. Schedule

The tasks described in Sections 3.1 and 3.2 will be completed within 30 days following the receipt of the Water Board's approval of this Work Plan. Compilation of the data and preparation of the report is expected to take an additional 30 days. This preliminary schedule presumes that:

- Access to the Metropolitan Transportation Authority property to the north for the purpose of collecting groundwater samples from the existing Site-related monitoring wells can be gained with 15-days from the start of the project;
- A subcontractor is available to conduct the groundwater sampling within the specified time-frame; and
- Access to agency files for off-site properties of potential concern can be gained within 15 days of submitting a formal request for review.




MALCOLM PIRNIE

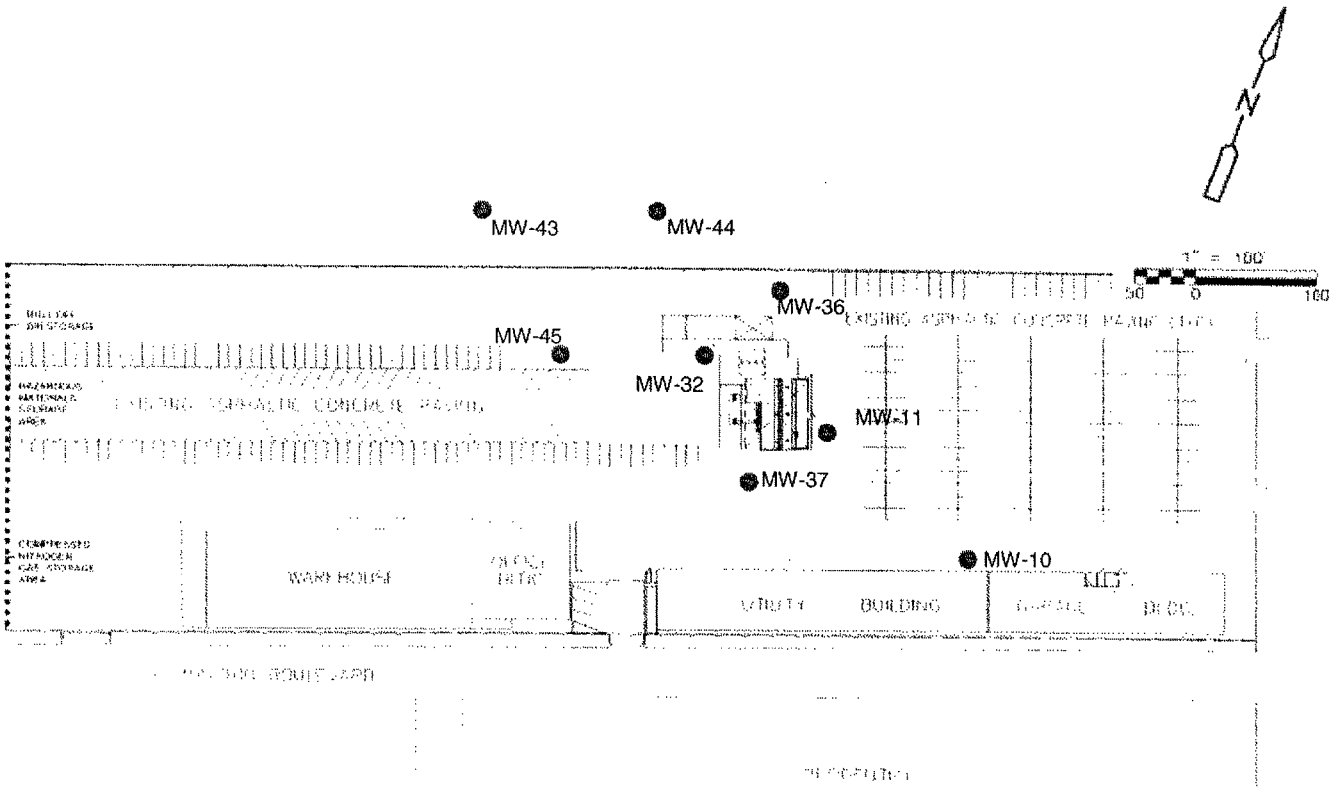
2000 Powell St, Suite 1180
Emeryville, CA 94608

Site Location

July 2008

Figure 1

Source: Kennedy/Jenks, 1999




Source: CDM, 2006c

| | |
|---|---|
| MALCOLM PIRNIE | 2000 Powell St, Suite 1180<br>Emeryville, CA 94608 |
| Existing Site Monitoring Wells | |
| July 2008 | Figure 2 |

# APPENDIX A

# GENERALLY ACCEPTED PROCEDURES FOR LOW FLOW GROUNDWATER SAMPLING

# Appendix A
# Generally Accepted Procedures for Low Flow Groundwater Sampling

## 1. PURPOSE/APPLICATION

The following presents a summary of the method for collecting groundwater samples that are representative of the formation from which they are being withdrawn, without producing significant quantities of purge water. By using low flow rates for purging and sampling to minimize drawdown within the well three primary benefits gained. First, using a low flow rate during sampling promotes laminar flow, which minimizes the disturbance of sediment at the bottom of a well or fine particles in the well's filter pack. Groundwater samples are therefore less turbid, which reduces sampling time and generally eliminates the need to filter. Second, the amount of groundwater purged from the sampling well is significantly reduced, minimizing investigation-derived waste. Third, low flow purging and sampling reduces aeration and therefore helps to preserves the natural chemical characteristics of the groundwater sample. Low flow sampling may be used to collect groundwater samples for analysis of contaminants of concern, as well as geochemical and biological parameters.

## 2. EQUIPMENT

Low flow groundwater sampling requires traditional groundwater sampling equipment with the addition of the following:

- Multi-parameter water quality monitoring system (e.g. Horiba U-22 or equivalent) equipped with a flow through cell.
- An adjustable rate, positive displacement, groundwater pump (e.g., centrifugal, submersible, or bladder pumps) constructed of stainless steel or Teflon capable of achieving low flow pumping rates (i.e., 100 to 500 milliliters per minute [ml/min]).
- Polyethylene tubing or equivalent.
- Flow measurement device (e.g., a graduated container and stop watch).
- A water level probe or oil/water interface probe.

## 3. PRE-SAMPLING PROCEDURES

The pre-sampling procedures for low flow groundwater sampling and purging are as follows:

1. To minimize the risk of cross-contamination, if possible, begin with the monitoring well that is known or believed to have the lowest contaminant concentrations.

2. Place polyethylene sheeting on the ground around the monitoring well for placement of all sampling equipment.

3. Where applicable, measure the concentration of volatile organic compounds (VOCs) in the well's headspace with a photoionization detector (PID) and record the concentration in the field log book. This should be completed immediately following removal of the well cap.

4. Measure and record the depth to water and if applicable, the depth to light non-aqueous phase liquid (LNAPL). Allow 10 to 30 minutes between the time the well cap is removed and the measurements are collected to allow the well to equate to barometric pressures.

## 4. SAMPLING PROCEDURES

The procedures for collecting groundwater samples using low flow are as follows:

1. **Pump Installation:** Install the pump by slowly lowering the pump assembly and tubing into the well. The pump should be set to the appropriate depth with the intake being a minimum of two-feet above the bottom of the well to prevent disturbing and re-suspending any sediment at the bottom of the well. If LNAPL is present in the well, equipment should be lowered through the LNAPL in a manner that will keep it from becoming cross-contaminated.

2. **Water Level Measurement:** Measure the depth to groundwater from the top of the well casing using a water level probe. Leave the probe in the well for subsequent water level measurements. Compare this depth-to-water measurement to the one collected prior to installing the sampling equipment and confirm that a significant increase in water height has not occurred.

3. **Purging:** Begin purging the well at a rate of 200 to 500 ml/min and measuring the water level at regular intervals. If excessive drawdown is observed in the well (i.e. greater that 0.3 feet), reduce the flow rate until the water level stabilizes. When the water level has stabilized, subsequent measurements should be made on five minute intervals. The flow rate, as well as flow rate adjustments should be recorded on a field purge log.

4. **Field Parameter Monitoring:** Field parameters (pH, conductivity, reduction/oxidation potential, DO, and turbidity) should be recorded every five minutes with water level measurements. The well is considered stable and ready to be sampled once the field parameters are stable over three consecutive readings (USEPA Region 2, 1998). Stable parameter are those that do not vary by more than 10 percent between readings.

   The pump should **not** be removed or shut off between purging and sampling.

5. **Sample Collection:** If necessary, reduce the flow rate to 100 to 250 ml/min to reduce turbulence while filling sample containers during sample collection. Where wells are purged at a flow rate less than 100 ml/min, maintain the same flow rate during sample collection. Disconnect the inflow line from the flow through cell and collect the groundwater sample directly into the laboratory-supplied containers. Allow water to flow from the tubing gently down the inside of the containers to minimize turbulence during sample collection. Groundwater samples should be collected in order of importance, according to the project requirements.

6. **Pump Removal:** Once sampling is complete, slowly remove the pump assembly and tubing from the well. If the tubing is dedicated to the well, disconnect the tubing from the pump, re-insert the tubing into the well, and secure the tubing so it is easily retrievable for the next sampling event.

7. **Secure Well:** Secure the top of the well casing with a locking cap or expansion plug and close the well. In the case of a stick-up protective well cover, lock the outer casing.

## 5. DECONTAMINATION

Dedicated or "single use" groundwater sampling equipment should be disposed in accordance with applicable local and federal regulations. The decontamination procedures for non-dedicated low flow groundwater sampling equipment are as follows:

1. **Pre-rinse:** Operate the pump and flush equipment thoroughly with deionized or distilled water for approximately five minutes.

2. **Wash:** Operate the pump and flush equipment thoroughly with Alconox or other non-phosphate detergent solution for approximately five minutes.

3. **Rinse:** Operate the pump and flush equipment thoroughly with deionized or distilled water for approximately five minutes or until all of the detergent has been removed from the equipment.

The exterior of the downhole sampling equipment should be decontaminated following the same triple-rinse procedures.

## 6. REFERENCES

United States Environmental Protection Agency (USEPA) Region II, 1998, Ground Water Sampling Procedure, Low Stress (low flow) Purging and Sampling, GW Sampling SOP, March 16th.

# EXHIBIT C

# California Regional Water Quality Control Board
## Los Angeles Region

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: http://www.waterboards.ca.gov/losangeles

**Linda S. Adams**
*Cal/EPA Secretary*

**Arnold Schwarzenegger**
*Governor*


May 19, 2008

Mr. Zachary Feingold
Verizon
2849 Ficus Street
Pomona, CA 91766

**CALIFORNIA WATER CODE SECTION 13267 ORDER: REQUIREMENT TO SUBMIT WORK PLAN FOR GROUNDWATER ASSESSMENT – VERIZON SANTA MONICA PLANT YARD, 2902 EXPOSITION BLVD., SANTA MONICA, CALIFORNIA 91601 (SLIC NO. 130C, SITE ID NO. 2040258)**

Dear Mr. Feingold:

Los Angeles Regional Water Quality Control Board (Regional Board) staff have reviewed documents illustrating the current and former distribution of volatile organic compounds at the site referenced above. We have also reviewed the history of chemical usage, assessment and remediation at your site, the history of groundwater cleanup using pump and treat technology for your motor fuel release, and the well construction and history of pumping from the City of Santa Monica domestic water supply wells (SM-3 and SM-4) immediately north of your site.

Regional Board staff believe that the plume of trichloroethene (TCE) in groundwater that is documented on your property and the Metropolitan Transit Authority property to the north resulted from a release of chemicals historically used on your site, and is possibly associated with the documented historical degreasing and painting activities there.

The current dissolved TCE plume increases in concentration upgradient; away from your site. This characteristic would normally be interpreted as representing a dissolved plume originating from an offsite source. However, in this instance it is more reasonable to believe the Verizon property is the source, and the following scenario, or some variation of it, has resulted in the current plume configuration:

1. The TCE and related volatile organic compounds (VOCs) were released during painting, degreasing, and other activities related to historical aircraft manufacturing or other activities at the site, in an area with a gentle groundwater gradient.
2. Santa Monica water supply wells SM-3 and SM-4 were installed north of the TCE release area at the site and began pumping. SM-3 began pumping in the late 1960s, and SM-4 began pumping in early 1980s.
3. As a result of the pumping from water supply wells SM-3 and SM-4 the groundwater gradient changed and the TCE was drawn toward the water supply wells and onto the MTA right of way.
4. The motor fuel release occurred, was discovered, and assessed; and the pump and treat system was installed, and operated from 1985 until 1996.
5. The pump and treat system reduced the concentration of fuel hydrocarbons and TCE in the vicinity of the fuel tanks and the former degreasing and painting areas. In addition, the naturally occurring biodegradation of the motor fuel resulted in the biodegradation of the TCE. The addition of motor fuel components has been shown to accelerate the biodegradation of TCE in groundwater at numerous sites.

6. The current TCE plume configuration, with increasing concentrations upgradient and offsite, is a result of the plume being drawn toward the city wells when the supply wells were both being pumped, the source area of the TCE release being preferentially attenuated as a result of pump and treat system operation and bioattenuation associated with motor fuel bioattenuation, and the reduction of pumping form the water supply wells.

Pursuant to section 13267 of the California Water Code, you are required to submit a work plan (technical report) to fully assess the lateral and vertical distribution of VOCs on and adjacent to your property. The work plan must be received by the Regional Board no later than **August 1, 2008.**

Pursuant to section 13268 of the California Water Code, failure to submit the required technical report by the due date may result in civil liability penalties administratively imposed by the Regional Board in an amount up to one thousand dollars ($1,000) for each day the technical report is not received.

**Please telephone Mr. Peter Raftery at (213) 576-6724 or email him at *praftery@waterboards.ca.gov* if you have any questions regarding this request.**

Sincerely,

Tracy J. Egoscue
Executive Officer

cc:
John D. Ambrosio, Red Bull North America, Inc.
Eddie Arslanian. (for Hines)
Lisette Bauersachs, City of Santa Monica
Nancy Beresky (for Red Bull North America, Inc.)
Aldo Chaney, DTSC
David G. Dundas (for the Higgins Trusts)
James Farrow, Komex
Octavio Fernandez, MTV
Andrew Gray, City of Santa Monica
Stephen Johnson, LECG
Bruce Kaufman, Extra Space
Hillel Kellerman, 1655 Property LLC
Robert Krug, DTSC
Alva Libuser, New Roads School
Marc L. Luzatto, The Welk Group
Douglas H. Metzler (for Hines)
Bruce Smiley (for 1655 Property LLC)
Craig Stewart, Geomatrix Consultants, Inc.
William Weaver, CDM
Eileen Wintemute (for 1655 Property LLC)