

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – OFFICE OF CHIEF COUNSEL
DECEMBER 4, 2012**

ITEM 12

SUBJECT

CONSIDERATION OF A PROPOSED RESOLUTION TO AUTHORIZE THE CHIEF DEPUTY DIRECTOR TO NEGOTIATE, APPROVE, AND EXECUTE TENTATIVE SETTLEMENT AGREEMENTS WITH PARTIES POTENTIALLY RESPONSIBLE FOR CONTAMINATION OF THE RIALTO-COLTON GROUNDWATER BASIN FROM A 160-ACRE SITE IN RIALTO

DISCUSSION

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. 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 Resources Control Board (State Water Board) commenced review of actions and inactions of the Santa Ana Water Board concerning the 160-acre site in Rialto. 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. The proposed resolution would authorize the Chief Deputy Director to negotiate, approve, and execute tentative settlement agreements with the potentially responsible parties on behalf of the State Water Board.

POLICY ISSUE

Should the State Water Board adopt a resolution authorizing the Chief Deputy Director to negotiate, approve, and execute tentative settlement agreements with the parties potentially responsible for contamination of the Rialto-Colton Groundwater Basin from a 160-acre site in Rialto?

FISCAL IMPACT

None

REGIONAL BOARD IMPACT

Santa Ana Water Board

STAFF RECOMMENDATION

The State Water Board should approve the proposed resolution.

State Water Board action on this item will assist the Water Boards in reaching Goal 2 of the Strategic Plan Update: 2008-2012 to narrative of goal(s). In particular, approval of this item will assist in fulfilling Objective 2.1 (Improve and protect groundwater in high-use basins by regulating activities that impact beneficial uses) and Objective 2.2 (Identify strategies to ensure that communities that rely on groundwater contaminated by anthropogenic sources will have a reliable drinking water supply).

DRAFT

STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2012-

AUTHORIZATION FOR THE CHIEF DEPUTY DIRECTOR TO NEGOTIATE, APPROVE, AND EXECUTE TENTATIVE SETTLEMENT AGREEMENTS WITH PARTIES POTENTIALLY RESPONSIBLE FOR CONTAMINATION OF THE RIALTO-COLTON GROUNDWATER BASIN FROM A 160-ACRE SITE IN RIALTO

WHEREAS:

1. Since 2002, the Santa Ana Regional Water Quality Control Board (Santa Ana Water Board) has been conducting an investigation of perchlorate and other contamination in the Rialto-Colton groundwater basin emanating from a 160-acre site in the City of Rialto (160-Acre Site);
2. On February 8, 2005, the Santa Ana Water Board Executive Officer issued a Cleanup and Abatement Order (CAO) naming a number of potentially responsible parties for the contamination;
3. On October 26, 2006, the Santa Ana Water Board Executive Officer released a draft amended CAO naming several entities and requiring various actions including soil and groundwater investigation, water replacement, and remediation;
4. On February 5, 2007, the State Water Resources Control Board's (State Water Board) Executive Director informed the named parties that the State Water Board would take this matter up on its own motion and hold an evidentiary hearing on this matter (designated SWRCB/OCC File A-1824);
5. On August 13, 2007, the Los Angeles County Superior Court stayed all proceedings with regard to SWRCB/OCC File A-1824;
6. On June 3, 2008, the State Water Board adopted [Order WQ 2008-0004](#) with the intent to ratify, nunc pro tunc, all actions taken by the designated hearing officer and the Executive Director;
7. On March 7, 2009, the Los Angeles County Superior Court issued a writ of mandate directing the State Water Board to rescind all actions taken with regard to SWRCB/OCC File A-1824;
8. On May 19, 2009, the State Water Board adopted [Order WQ 2009-0004](#) to, among other things, comply with the writ of mandate;
9. On September 23, 2009, the United States Environmental Protection Agency (U.S. EPA) listed the 160-acre site on the National Priorities List pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 U.S.C. § 9601 et seq.);
10. On September 30, 2010, U.S. EPA issued its Interim Action Record of Decision that selected an interim remedy for the cleanup of the 160-Acre Site;

D R A F T

11. All of the potentially responsible parties named in SWRCB/OCC File A-1824 are in the process of reaching tentative agreements with U.S. EPA, the Santa Ana Water Board, the City of Rialto, and San Bernardino County concerning remediation of the contamination from the 160-Acre Site;
12. The State Water Board has the authority to approve the settlement between the U.S. EPA and the potentially responsible parties and to authorize administrative settlement agreements dismissing all claims pending against said parties pursuant to the Water Code;

THEREFORE BE IT RESOLVED THAT:

The State Water Board authorizes the Chief Deputy Director to negotiate, approve, and execute tentative settlement agreements with parties potentially responsible for contamination of the Rialto-Colton groundwater basin from a 160-Acre Site in the City of Rialto, California. Additionally, the Chief Deputy Director is authorized to perform all acts and to do all things necessary and convenient to implement any such settlement agreements.

CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on December 4, 2012.

Jeanine Townsend
Clerk to the Board