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9 HOLLYWOOD PARK LAND COMPANY, LLC

10 **CALIFORNIA STATE WATER RESOURCES CONTROL BOARD**

11 In the Matter of Comments on Technical Report  
12 and Work Plan, Pursuant to California Water  
13 Code Section 13267—Hollywood Park Racetrack  
14 and Casino, 1050 South Prairie Avenue,  
15 Inglewood, California (Site ID No. 2040271,  
16 SLIC No. 1207)

17 **PETITION FOR REVIEW**

18 Pursuant to Section 13320 of California Water Code and Section 2050 of Title 23 of the  
19 California Code of Regulations (CCR), Hollywood Park Land Company, LLC (“HPLC” or  
20 “Petitioner”) hereby petitions the State Water Resources Control Board (“State Board”) to review and  
21 vacate the final decisions of the California Regional Water Quality Control Board for the Los  
22 Angeles Region (“Regional Board”) contained in its letter issued August 22, 2008 requiring  
23 additional work and analysis. The letter was issued pursuant to California Water Code Section 13267  
24 and entitled “Comments on Technical Report and Work Plan, Pursuant to California Water Code  
25 Section 13267—Hollywood Park Racetrack and Casino, 1050 South Prairie Avenue, Inglewood,  
26 California (Site ID No. 2040271, SLIC No. 1207)” on August 22, 2008 (the “August 22, 2008  
27 Letter”). On September 17, 2008 the Regional Board granted a 60-day extension of the due dates  
28 contained within the August 22, 2008 Letter in a letter entitled “Extension Approval for Technical  
Report Submittal Pursuant to California Water Code Section 13267—Hollywood Park Racetrack and  
Casino, 1050 South Prairie Avenue, Inglewood, California (Site ID No. 2040271, SLIC No. 1207)  
(the “September 17, 2008 Letter,” and collectively with the August 22, 2008 Letter, are referenced  
herein as the “13267 Letter”). A copy of the 13267 Letter is attached hereto as Exhibit A.

1 Pursuant to Section 2050.5(d) of Title 23 of the CCR, Petitioner requests that State Board  
2 action on this petition be HELD IN ABEYANCE pending further action by the Regional Board.  
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4 **I. NAME AND ADDRESS OF PETITIONER**

5 Hollywood Park Land Company, LLC

6 c/o Wilson Meany Sullivan

7 100 Wilshire Boulevard, Ste. 940

8 Santa Monica, California 90401

9 Attention: Douglas Moreland

10 Telephone: (310) 382-9000

11 Fax: (310) 382-9097  
12

13 **II. THE SPECIFIC ACTION OR INACTION OF THE REGIONAL BOARD**  
14 **WHICH THE STATE BOARD IS REQUESTED TO REVIEW AND A COPY**  
15 **OF ANY ORDER OR RESOLUTION OF THE REGIONAL BOARD WHICH**  
16 **IS REFERRED TO IN THE PETITION**

17 The Regional Board action for which this petition is filed is the issuance of letters pursuant to  
18 Section 13267 of the California Water Code entitled "Comments on Technical Report and Work  
19 Plan, Pursuant to California Water Code Section 13267—Hollywood Park Racetrack and Casino,  
20 1050 South Prairie Avenue, Inglewood, California (Site ID No. 2040271, SLIC No. 1207)" dated  
21 August 22, 2008, and "Extension Approval for Technical Report Submittal Pursuant to California  
22 Water Code Section 13267—Hollywood Park Racetrack and Casino, 1050 South Prairie Avenue,  
23 Inglewood, California (Site ID No. 2040271, SLIC No. 1207)" dated September 17, 2008.  
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1           **III. THE DATE ON WHICH THE REGIONAL BOARD ACTED OR REFUSED**  
2           **TO ACT OR ON WHICH THE REGIONAL BOARD WAS REQUESTED TO**  
3           **ACT**

4           The date of the Regional Board's original issuance of the 13267 Letter is August 22, 2008  
5 (which was supplemented by the September 17, 2008 Letter).

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7           **IV. A FULL AND COMPLETE STATEMENT OF THE REASONS THE ACTION**  
8           **OR FAILURE TO ACT WAS INAPPROPRIATE OR IMPROPER**

9           Petitioner challenges the decisions and conclusions contained in the 13267 Letter on the  
10 grounds that the scope and breadth of the information being sought does not, and cannot, satisfy the  
11 specific requirements of Water Code section 13267. The requirements in the 13267 Letter fail to  
12 satisfy the mandatory statutory criterion that "the burden, including costs, of these reports shall bear a  
13 reasonable relationship to the need for the report and the benefits to be obtained from the reports."  
14 Water Code, § 13267(a) and (b). For the reasons set forth more fully below, Petitioner believes that,  
15 in issuing the 13267 Letter, the Regional Board abused its discretion and acted arbitrarily in violation  
16 of law.

17           **A. BACKGROUND**

18           Petitioner owns an approximately 238-acre parcel of land located at 1050 South Prairie  
19 Avenue in Inglewood, California. Currently, the Hollywood Park Racetrack and Casino are operated  
20 on the property by Petitioner, but Petitioner is preparing for the potential redevelopment of the  
21 property as a master-planned, mixed-use development . On behalf of the Petitioner, Petitioner's  
22 environmental consultant, Erler & Kalinowski, Inc. ("EKI") submitted to the Regional Board an  
23 Application for Oversight Agency Selection, dated July 21, 2006<sup>1</sup> seeking designation of an  
24 environmental regulatory agency to provide oversight of soil management and redevelopment of the  
25 Property in accordance with the *Memorandum of Agreement Between the Department of Toxic*

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28 <sup>1</sup> *Application for Oversight Agency Selection, Hollywood Park, 1050 South Prairie Avenue, Inglewood, California, Erler & Kalinowski, Inc., 21 July 2006.*

1 *Substances Control and the State Water Resources Control Board and the Regional Water Quality*  
2 *Control Boards and the California Environmental Protection Agency for the Oversight and*  
3 *Investigation and Cleanup Activities of Brownfields Sites*, dated March 1, 2005 (“MOA”).<sup>2</sup> The  
4 Regional Board was selected, in accordance with the established MOA procedures, as the  
5 environmental regulatory oversight agency for the proposed redevelopment project.<sup>3</sup> The  
6 Application for Oversight Agency Selection proposed a “dual-track” approach for the property,  
7 which involved pursuing continued operation of the property as a horse racetrack and casino, and  
8 preparing for potential redevelopment of the property.

9 To prepare for potential redevelopment, a Soil Management Plan (“SMP”) was prepared by  
10 EKI to summarize the strategy developed by Petitioner and the Regional Board to provide an  
11 environmental risk management framework that will be implemented during the redevelopment  
12 process. This framework is intended to provide orderly and timely management of residual  
13 chemicals of potential concern in soil previously identified in certain areas, or possibly encountered  
14 on the property in a manner that is consistent with the planned land uses, and that is protective of  
15 human health and the environment, including water quality. The SMP was submitted to the Regional  
16 Board and conditionally approved by the Regional Board in correspondence dated December 24,  
17 2007 (the “December 2007 Letter”). At that time, the Regional Board requested additional  
18 information regarding certain conditions on the property potentially relevant to the planned  
19 redevelopment including, among other issues, the anticipated quality of the fill used during the  
20 original development of the property, arsenic levels found in certain soil samples, and further site  
21 assessment work, including a groundwater quality assessment for the property and a soil screening  
22 sampling plan for certain areas of the property including the large parking lot. To the extent that the

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24 <sup>2</sup> *Memorandum of Agreement Between the Department of Toxic Substances Control and the State*  
25 *Water Resources Control Board and the Regional Water Quality Control Boards and the*  
26 *California Environmental Protection Agency for the Oversight and Investigation and Cleanup*  
*Activities of Brownfields Sites*, 1 March 2005.

27 <sup>3</sup> *Spills, Leaks, Investigations, and Cleanups (SLIC) Oversight Cost Reimbursement Account –*  
28 *Hollywood Park Racetrack at 1050 South Prairie Avenue, Inglewood, California 90305 (SLIC*  
*No. 1207)*, California Regional Water Quality Control Board, Los Angeles Region, 8 September  
2006.

1 property is redeveloped, the SMP will be implemented as part of the overall redevelopment of the  
2 property under Regional Board oversight. As described in the SMP, areas where chemicals of  
3 potential concern (“COPCs”) are encountered during the redevelopment of the property will be  
4 investigated, and concentrations of COPCs determined to be above the property-specific criteria will  
5 be remediated in accordance with the SMP approved by the Regional Board, prior to or during  
6 property grading.

7         On April 24, 2008, the Petitioner submitted a Technical Report and Work Plan (“April 2008  
8 Work Plan”) prepared by EKI in response to the December 2007 conditional approval of the SMP.  
9 The April 2008 Work Plan responded to the December 2007 Regional Board requests that were  
10 raised in approval of the SMP. The April 2008 Work Plan addressed the Regional Board’s request  
11 for additional information on the quality of the fill used during the original development of the site,  
12 concluding that the fill had come from other locations on-site, as opposed to off-site, and therefore  
13 did not pose any risk of historic contamination from unknown off-site sources. In addition, EKI  
14 evaluated the levels of arsenic found in certain soil samples taken from the property and confirmed  
15 that the majority of the arsenic levels found at the property represented naturally occurring levels of  
16 arsenic similar to those found in soils in the project area. The SMP provides a program to address  
17 arsenic levels in soil that are discovered during redevelopment and that exceed the site-specific  
18 criterion proposed for the property consistent with the naturally occurring levels of arsenic.

19         The April 2008 Work Plan also provided a detailed summary of the regional groundwater  
20 quality based upon groundwater sampling results from groundwater monitoring wells and  
21 groundwater samples obtained both on and off the property, including monitoring activities by local  
22 water agencies. The summary concluded that there are low levels of various chemicals, including  
23 nitrate, perchlorate, tetrachloroethene (“PCE”), and total petroleum hydrocarbons (“TPH”) in the  
24 groundwater surrounding the property. EKI concluded that the ubiquitous and low levels of these  
25 chemicals in the regional groundwater are consistent with historical industrial, commercial and  
26 agricultural uses of the surrounding communities and do not pose risks to the current property uses or  
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1 future redevelopment.<sup>4</sup> The April 2008 Work Plan proposed the placement of four groundwater  
2 monitoring wells primarily on the western and southern boundaries of the property in response to the  
3 December 2007 Letter from the Regional Board. The proposed groundwater monitoring wells would  
4 be used to confirm the groundwater flow gradient and direction along the western and southern  
5 boundaries of the property and provide additional groundwater quality information regarding  
6 compounds believed to be migrating onto the property from off-site sources, such as TPH and  
7 perchlorate, or as part of known regional impact to shallow groundwater, such as nitrate.<sup>5</sup>

8 The April 2008 Work Plan also proposed taking sixteen shallow soil samples for soil quality  
9 screening purposes in the parking lot area in response to the December 2007 Letter from the Regional  
10 Board. These soil samples would be analyzed for various constituents to confirm the overall quality  
11 of the shallow soils on the property.

12 In response to the April 2008 Work Plan, the Regional Board issued a letter dated August 13,  
13 2008 entitled “Conditional Approval of Work Plan for Installation of Groundwater Monitoring Wells  
14 and Work Plan for Proposed Soil Sampling in Western and Southern Parking Lot Areas—Hollywood  
15 Park Racetrack and Casino, 1050 South Prairie Avenue, Inglewood, California (Site ID No. 2040271,  
16 SLIC No. 1207) (the “August 13, 2008 Letter”). Subsequently the Regional Board issued the 13267  
17 Letter on August 22, 2008 (as supplemented by the September 17, 2008 Letter). The 13267 Letter  
18 references and incorporates by attachment the August 13, 2008 Letter.

19 The 13267 Letter provides comments to the April 2008 Work Plan by addressing and  
20 providing additional requests with respect to the ten comments originally raised in the December  
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23 <sup>4</sup> Petitioner is currently operating soil vapor extraction system in the Former Dry Cleaning Area at  
24 the property in accordance with a work plan approved by the Regional Board in a letter dated 8  
25 May 2007, entitled “*Conditional Approval of Soil Vapor Extraction Work Plan—Former Dry  
26 Cleaning Area in Hollywood Park Racetrack and Casino, 1050 South Prairie Avenue, Inglewood,  
27 California (Site ID No. 2040271, SLIC ID No. 1207).*”

28 <sup>5</sup> It should be noted that seven groundwater monitoring wells were installed by Chevron, at the  
request of the Regional Board, on the northern and eastern portion of Petitioner’s property and are  
currently being used by Chevron for monitoring of benzene and tertiary butyl alcohol plumes that  
are migrating in groundwater from the former Cypress Fee site onto Petitioner’s property. (2005  
*Annual Groundwater Monitoring Report, Cypress Fee Property, Inglewood, California*, Blasland,  
Bouck & Lee, Inc., 23 January 2006.)

1 2007 conditional approval of the SMP. Petitioner is aggrieved by seven of the ten comments, as  
2 discussed below in more detail.

3 **B. THE BURDENS ASSOCIATED WITH CONDUCTING THE**  
4 **ADDITIONAL REQUESTED STUDIES AND REPORTS IN THE 13267**  
5 **LETTER FAR OUTWEIGH THE ALLEGED BENEFITS**

6 1. Comment #1 in Regional Board's December 2007 Letter

7 Comment #1 raised in the Regional Board's December 2007 Letter requested additional  
8 information regarding fill materials on the property. The April 2008 Work Plan provided historic  
9 information on fill activities on the property, including the cut and fill during original development of  
10 the property during the 1930s, documentation that pre-1984 fill materials were not imported to the  
11 property, and information that indicates the 1984 racetrack expansion and casino construction used  
12 fill materials sourced on-site from stockpiles on the property. The 13267 Letter concurs with  
13 conclusions regarding the pre-1984 fill sources but requires the Petitioner to submit additional  
14 documentation to verify the assertion that on-site stock piles were the source of fill materials used in  
15 the racetrack expansion and casino construction in 1984. The requested documentation to verify the  
16 source of fill materials may include aerial photographs of the soil stockpile pre- and post-1984, and  
17 soil boring lithologic logs from the areas where fill material was deposited in 1984 to demonstrate  
18 that the composition of the fill material used in 1984 is consistent with earlier fill material used at the  
19 property.

20 Petitioner has agreed to look for additional aerial photographs and available records that may  
21 provide further information regarding the sources of fill soils used for expansion of the Main Track  
22 and casino construction in 1984. However, drilling additional boreholes in these areas is not cost  
23 effective or prudent, given that these soils have been in place for nearly 25 years and there are no  
24 known concerns for the current commercial horse racing and casino operations. During  
25 redevelopment, these areas will be excavated for geotechnical purposes to depths of up to 25 feet;  
26 therefore, there will be ample opportunity to observe these fill soils for lithologic logging purposes  
27 during redevelopment, which will be conducted in accordance with the approved SMP.  
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2. Comment #2 in Regional Board's December 2007 Letter

Comment #2 raised in the Regional Board's December 2007 Letter requested additional groundwater sampling to characterize groundwater quality over the entire 238 acres of property and to determine the groundwater gradient in the western part of the property, citing concentrations of TPH (290 micrograms per liter, "ug/L"), PCE (5.8 ug/L), and perchlorate (11 ug/L) detected in grab groundwater samples collected on the property during 2005, although information provided to the Regional Board indicates that the TPH and perchlorate appear to be associated with sources that are not on the property. In response, the Petitioner's April 2008 Work Plan proposed to install four groundwater monitoring wells and four associated deep soil boreholes in the western area of the property. In its August 13, 2008 Letter, incorporated by reference in the 13267 Letter, the Regional Board required the installation of at least four additional groundwater monitoring wells to be installed near the Grandstand Building and at the Former Dry Cleaning Area, i.e., both at locations where prior deep grab groundwater boreholes were installed for groundwater sampling purposes, and within the infield of the Main Track, i.e., in the southern end of the infield near the Former Track Maintenance Area, and in the northern section infield area, east of the Inglewood (Townsite) Fault Trace, which is believed to be causing a geohydrologic divide on the property.

Installation of at least four additional groundwater monitoring wells as requested by the Regional Board would be a futile effort at this point in time for several reasons. First, three of the four additional wells requested are directed at an assumed nitrate groundwater problem, although the available data indicates that there is no such problem on the property, and data indicates nitrate is migrating onto the property from unknown off-site sources. The August 13, 2008 Letter provides inaccurate reference to "elevated levels of nitrogen compounds in groundwater present *throughout* the Property" (emphasis added), and "plumes *originating* from the Property" (emphasis added). The data from the 2008 Work Plan makes clear that there are no nitrate "plumes" originating from the property. Instead, the data show that the highest nitrate concentrations in grab groundwater samples collected on the property are only slightly greater than the drinking water standard for nitrate, are found on the western property boundary, and such nitrate concentrations are migrating onto the property from an off-site release(s) or historical sources. Additionally, nitrate is a pervasive regional



1 groundwater issue in the West Coast Basin, and due to the widespread occurrences and persistent  
2 nature of nitrate concentrations, it is difficult to determine if the nitrate is from current or past  
3 operations in the surrounding region or from natural or man-made sources in the area. Nitrate is a  
4 known local ground water quality issue in the City of Inglewood area. Of the samples taken from  
5 groundwater on the property, nitrate concentrations were largely below the maximum contamination  
6 level (MCL) of 10 milligrams per liter (“mg/L”) (as nitrogen), particularly in the middle of the  
7 property. Only a few grab groundwater samples collected from locations on the western property  
8 boundary were slightly above the MCL, and those levels are consistent with the regional nitrate  
9 problem in shallow groundwater. However, the planned four groundwater monitoring wells, which  
10 are deep and expensive to drill, are considered adequate to investigate and verify current nitrate  
11 concentration in groundwater on the portion of the property west of the Inglewood (Townsite) Fault  
12 Trace.

13 Finally, installing four additional groundwater monitoring wells as requested by the 13267  
14 Letter in addition to the four groundwater monitoring wells previously proposed under the April 2008  
15 Work Plan would be excessively costly, given the minimal information to likely to be gained, and  
16 premature, given that Petitioner is currently making arrangements to install the four approved  
17 groundwater monitoring wells for purposes of confirming the groundwater flow directions on the  
18 western portion of the property. The four groundwater monitoring wells proposed under the April  
19 2008 Work Plan are sufficient for additional investigations of groundwater issues originally identified  
20 by the Regional Board staff prior to the issuance of the 13267 Letter (i.e. in the December 2007  
21 Letter), including regional nitrate concentrations that appear to be migrating onto the property from  
22 the off-site locations on the western side of the property. Moreover, given the current redevelopment  
23 plans for the property, the major over-excavation and mass grading that would occur during  
24 redevelopment activities would likely destroy any added wells. Even if installing four additional  
25 wells could yield beneficial information without creating a disproportionate burden, such request by  
26 the Regional Board is premature. Prudence dictates that information from the four groundwater  
27 monitoring wells originally proposed in the April 2008 Work Plan be gathered and analyzed before  
28

1 determining whether additional groundwater wells are necessary or appropriate, or when they may be  
2 appropriate.

3 3. Comment #3 in Regional Board's December 2007 Letter

4 With respect to Comment #3 raised in the Regional Board's December 2007 Letter, the 13267  
5 Letter requests that Petitioner determine the vertical and lateral extent of volatile organic compound  
6 ("VOC") soil and groundwater contamination to non-detectable levels at the Former Dry Cleaning  
7 Area regardless of possible future redevelopment, and without waiting for demolition of the existing  
8 buildings on the property.<sup>6</sup> The Regional Board provided further details of this request in a separate  
9 letter on August 20, 2008 entitled "Conditional Approval of Work Plan for SVE Rebound Testing  
10 and Confirmation Soil Sampling in the Former Dry Cleaning Area—Hollywood Park Racetrack and  
11 Casino, 1050 South Prairie Avenue, Inglewood, California (Site ID No. 2040271, SLIC No. 1207)  
12 (the "SVE Letter"). This letter approves the *Work Plan for SVE Rebound Testing and Confirmation*  
13 *Soil Sampling in the Former Dry Cleaning Area* prepared by EKI, dated 9 July 2008 (the "SVE  
14 Rebound Work Plan"). Some of the information requested by the Regional Board in the SVE Letter  
15 would be ineffectual and infeasible given the current building structures on the property in this  
16 location. Due to the access constraints described, drilling locations are limited to the approximate  
17 location of prior grab groundwater borehole PS-GW-1 (i.e., outside the Grandstand Building). Since  
18 this borehole has already been drilled, no new information would be obtained at this location, and  
19 thus the Regional Board's request would be unreasonably costly without generating the benefit of  
20 new, or necessary information. Further, ongoing soil vapor extraction ("SVE") remediation is in  
21 progress in the Former Dry Cleaning Area and there exists a prior agreement with the Regional Board  
22 staff to investigate groundwater in this area if needed after SVE completion, and only after  
23 demolition of the existing building.<sup>7</sup> Due to the access limitations in the Former Dry Cleaning Area,  
24 the soil sampling proposed in the SVE Rebound Work Plan will result in collection of soil samples in

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26 <sup>6</sup> *Conditional Approval of Soil Vapor Extraction Work Plan—Former Dry Cleaning Area in*  
27 *Hollywood Park Racetrack and Casino, 1050 South Prairie Avenue, Inglewood, California (Site*  
*ID No. 2040271, SLIC ID No. 1207).*

28 <sup>7</sup> *Id.*

1 indoor areas to the deepest feasible depths, on which the Grandstand Building exists. Deeper  
2 confirmation soil samples cannot likely be collected currently due to the access constraints described  
3 in this Section B.3.

4 4. Comment #4 in Regional Board's December 2007 Letter

5 Comment #4 raised in the Regional Board's December 2007 Letter makes reference to VOC  
6 concentrations detected in soil gas samples collected at a depth of seven feet below the ground  
7 surface ("bgs") at the Current Vehicle Maintenance Area. The 13267 Letter requires Petitioner to  
8 conduct rapidly a site-specific vapor intrusion evaluation for unrestricted future land use in this area  
9 by March 2, 2009 (emphasis added), with a vapor intrusion evaluation report due to the Regional  
10 Board by December 31, 2008. The Regional Board's request is unnecessary at this time, given the  
11 current operations in that area on the property, and because the sampling locations referenced in the  
12 Regional Board's letter are not located within a building (i.e., these samples were collected in a  
13 carport area where there are no enclosing walls). Further, this area is a working vehicle maintenance  
14 garage and thus it employs practices under OSHA to protect workers from exposure to gases and  
15 vapors by the nature of their working environment. The Department of Toxic Substances Control  
16 guidance makes clear that workers subject to potential exposure to gases and vapors by the nature of  
17 their working environment are regulated under OSHA, and further, that there is no need to evaluate  
18 vapor intrusion risks for an area where there are currently no structures and no complete exposure  
19 pathways.<sup>8</sup> This area will be graded significantly as part of planned redevelopment when that occurs.  
20 During redevelopment of the property, the approved SMP provides a comprehensive set of  
21 procedures to investigate and address this area of the property consistent with future land uses,  
22 including collection of additional soil gas samples. As a result, the Regional Board's request for a  
23 site-specific vapor intrusion evaluation for unrestricted future land use in the Current Vehicle  
24 Maintenance Area at this time is unwarranted.

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27 <sup>8</sup> *Interim Final Guidance for the Evaluation and Mitigation of Subsurface Vapor Intrusion to*  
28 *Indoor Air*, California Department of Toxic Substances Control, 15 December, 2004 (Revised 7  
February 2005)



1 Groundwater was encountered at approximately 171.8 feet bgs in a borehole drilled in this area,  
2 which is consistent with groundwater occurring in the seven nearby groundwater monitoring wells  
3 installed by Chevron on the Petitioner's property, for purposes of monitoring TPH, benzene and  
4 tertiary butyl alcohol ("TBA") plumes in groundwater. Therefore, this soil sample collected from  
5 borehole SB-10 is located approximately 151.8 feet above groundwater, and the Regional Board's  
6 own screening levels for TPH in this instance, as published in the 1996 Guidance, would be 10,000  
7 mg/kg for diesel-range TPH and 50,000 mg/kg for motor-oil range TPH.<sup>10</sup> The detected  
8 concentrations of TPH are at least one order of magnitude less than these screening levels, and thus  
9 TPH soil concentrations at this location are not noteworthy. There is no reasonable relationship  
10 between the potential benefits to be obtained from the reports requested and the costs and burden on  
11 Petitioner. In addition, the majority of TPH detected is higher molecular weight, consistent with  
12 motor oil, which is not mobile and not likely to migrate. Gasoline-range TPH was not detected in  
13 this soil sample. Further, Chevron is currently monitoring known groundwater plumes in the vicinity  
14 of this area. Significant sampling has been conducted within this area to provide sufficient evidence  
15 that TPH concentrations do not exceed the applicable screening levels and are not likely to contribute  
16 to groundwater contamination. Finally, after demolition and during grading the SMP will require  
17 further evaluation of any impacted soils in this area before redevelopment. Therefore, providing  
18 additional soil samples and reports related to this area adjacent to the Training Track would not yield  
19 any additional benefits or new information given the current land use, thus the additional costs  
20 associated with such analysis is unreasonable.

21 7. Comment #7 in Regional Board's December 2007 Letter

22 Finally, Comment #7 addressed in the Regional Board's December 2007 correspondence  
23 speaks to subsurface "nitrate" contamination issues in the stable, Main Track and Training Track  
24 Areas. As provided in the 13267 Letter, Petitioner is required to submit a work plan by January 15,  
25 2008 to assess the infield areas of the Main Track and Training Track Areas for potential  
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27 <sup>10</sup> *Interim Site Assessment & Cleanup Guidebook*, California Regional Water Quality Control Board,  
28 Los Angeles and Ventura Counties, Region 4, May 1996.

1 contaminants of concern that may be present. As discussed above in the groundwater monitoring  
2 comments under Section B.2., detected levels of nitrogen compounds in first encountered in  
3 groundwater are believed to be migrating onto the property from an off-site release(s) or historic  
4 regional sources—not from an on-site source. In addition, the stable, Main Track and Training Track  
5 Areas are currently operating under NPDES Permits and are thus already overseen by the Regional  
6 Board. For example, the Regional Board has required the implementation of a Manure Management  
7 Plan to prevent stormwater from contacting stored manure or manure-soiled bedding, and the  
8 implementation of a weekly maintenance and inspection program for drains discharging horse wash  
9 water and water from the stable area. Large areas of the Main Track infield are underlain by  
10 engineered pond liner systems installed previously under Regional Board oversight; drilling for soil  
11 sampling cannot occur in these areas without damage to the liners. As a result, the requests of the  
12 Regional Board are unduly burdensome because these locations are already regulated and regularly  
13 monitored by the Regional Board under the NPDES Permit.

#### 14 C. CONCLUSION

15 Overall, the burdens associated with conducting the additional requested studies and reports in  
16 the 13267 Letter far outweigh the alleged benefits. Further, much of the additionally requested  
17 investigation is pertinent to, and will be addressed during, planned redevelopment that will include  
18 implementation of the approved SMP. As such, the requirements in the 13267 Letter fail to satisfy  
19 the mandatory statutory criterion that “the burden, including costs, of these reports shall bear a  
20 reasonable relationship to the need for the report and the benefits to be obtained from the reports.”  
21 Water Code, § 13267(a) and (b). Thus, the Regional Board abused its discretion and acted arbitrarily  
22 in violation of law.

#### 24 V. THE MANNER IN WHICH PETITIONER IS AGGRIEVED:

25 Petitioner is aggrieved because of the reasons set forth in Section IV above.

1           **VI. THE SPECIFIC ACTION BY THE STATE OR REGIONAL BOARD WHICH**  
2           **PETITIONER REQUESTS**

3           Petitioner respectfully requests that the State Board: (i) accept this Petition, (ii) vacate the  
4 13267 Letter's time schedule and corresponding proposed civil penalties if Petitioner violates the  
5 compliance deadlines, (iii) review the substance of the requested additional work and reports; and (iv)  
6 establish new compliance deadlines. However, Petitioner requests at this that the Petition be held in  
7 abeyance pursuant to CCR, Title 23, Section 2050.5(d) and reserves its right to supplement the  
8 Petition.

9  
10           **VII. A STATEMENT OF POINTS AND AUTHORITIES IN SUPPORT OF LEGAL**  
11           **ISSUES RAISED IN THE PETITION**

12           Petitioner will provide a detailed statement of points and authorities in the event the Executive  
13 Officer or the Regional Board take further action which necessitates Petitioner requesting the State  
14 Board to convert this petition to active status.

15  
16           **VIII. A STATEMENT THAT THE PETITION HAS BEEN SENT TO THE**  
17           **APPROPRIATE REGIONAL BOARD AND TO THE DISCHARGERS, IF NOT**  
18           **THE PETITIONER**


19           A true and complete copy of this Petition, without attachment, was sent electronically and by  
20 First Class Mail to Tracy J. Egoscue, Executive Officer, Regional Water Quality Control Board, Los  
21 Angeles Region, 320 W. 4th Street, Suite 200, Los Angeles, California 90013.

1 **IX. A STATEMENT THAT THE ISSUES RAISED IN THE PETITION WERE**  
2 **PRESENTED TO THE REGIONAL BOARD BEFORE THE REGIONAL**  
3 **BOARD ACTED, OR AN EXPLANATION OF WHY THE PETITIONER**  
4 **COULD NOT RAISE THOSE OBJECTIONS BEFORE THE REGIONAL**  
5 **BOARD**

6 All of the points and issues raised in Section IV were discussed on September 11, 2008 with  
7 staff of the Regional Board. EKI, on behalf of Petitioner is preparing a detailed written follow-up  
8 letter regarding the September 11, 2008 meeting, and the Regional Board staff agreed to give further  
9 consideration to the information presented by EKI on behalf of Petitioner to reevaluate their positions  
10 as set forth in the 13267 Letter.

11 DATED: September 22, 2008

GIBSON, DUNN & CRUTCHER LLP  
Patrick W. Dennis

12  
13  
14 By:   
Patrick W. Dennis

15  
16 Attorneys for Petitioner,  
HOLLYWOOD PARK LAND COMPANY, LLC

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# California Regional Water Quality Control Board

## Los Angeles Region



Linda S. Adams  
Cal/EPA Secretary

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>

Arnold Schwarzenegger  
Governor

September 17, 2008

Mr. Doug Moreland, Manager  
Hollywood Park Land Company, LLC  
100 Wilshire Boulevard, Suite 940  
Santa Monica, CA 90401

**EXTENSION APPROVAL FOR TECHNICAL REPORT SUBMITTAL PURSUANT TO CALIFORNIA WATER CODE SECTION 13267- HOLLYWOOD PARK RACETRACK AND CASINO, 1050 SOUTH PRAIRIE AVENUE, INGLEWOOD, CALIFORNIA (SITE ID NO. 2040271, SLIC NO. 1207)**

Dear Mr. Moreland:

The Los Angeles Regional Water Quality Control Board (Regional Board) staff have received your letter dated September 12, 2008, requesting a 60-day extension for the submittal of the technical reports specified in the Regional Board letter (Letter) dated August 22, 2008. Your letter explained the on-going discussions between you and the Regional Board staff to resolve the issues raised by the Letter. Therefore, the Regional Board hereby grants a 60-day extension of the due dates contained within the Letter per the following schedule:

REFERENCE	TECHNICAL REPORT REQUIRED	PREVIOUS DUE DATE	REVISED DUE DATE
Item 4. August 22, 2008 letter.	Vapor intrusion evaluation and submittal of a vapor intrusion evaluation report for the Existing Vehicle Maintenance and Underground Storage Tanks Area.	December 31, 2008	March 2, 2009
Item 5. August 22, 2008 letter.	Vapor intrusion evaluation and submittal of a vapor intrusion evaluation report for the Former Track Maintenance Area.	December 31, 2008	March 2, 2009
Item 6. August 22, 2008 letter.	Work plan to fully delineate the extent of TPH contaminated soils in the Former Oil Wells and Impoundment Area.	November 15, 2008	January 15, 2009
Item 7. August 22, 2008 letter.	Work plan to fully assess the infield areas of the Main Track and Training Track Areas.	November 15, 2008	January 15, 2009
Item 4. August 13, 2008 letter.	First Quarterly Monitoring Report.	January 15, 2009	April 15, 2009

*California Environmental Protection Agency*



*Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.*

EXHIBIT A

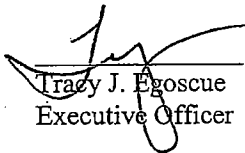
Mr. Doug Moreland  
Hollywood Park Land Company, LLC

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September 17, 2008

Should you have any questions, please contact Mr. Gregg Crandall at (213) 576-6701 or Ms. Su Han at (213) 576-6735.

Sincerely,

  
Tracy J. Egoscue  
Executive Officer

Enclosures:     Regional Board's August 22, 2008 *Comments on Technical Report and Work Plan.*  
                  Regional Board's August 13, 2008 *Conditional Approval of Work Plan for Installation of*  
                  *Groundwater Monitoring Wells and Work Plan for Proposed Soil Sampling in Western and*  
                  *Southern Parking Lot Areas.*

cc:               Mr. Jose Alvarez, Community Development Department, City of Inglewood  
                  Mr. Joe Baiocco, County of Los Angeles Department of Public Works  
                  Ms. Jami A. Striegel Orloff, Erlen & Kalinowski, Inc.  
                  Mr. Patrick Dennis, Gibson, Dunn and Crutcher LLP

***California Environmental Protection Agency***



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