

LAW OFFICES OF
K. GREG PETERSON
1716 L STREET
SACRAMENTO, CA 95814

TELEPHONE (916) 443-3010
FACSIMILE (916) 492-2680
E-Mail: greg@kgregpeterson.com

MAILING ADDRESS
P. O. BOX 254451
SACRAMENTO, CA 95865

January 19, 2006

VIA FACSIMILE - ORIGINAL BY MAIL

Kenneth D. Landau, Acting Executive Officer
CRWQCB
Central Valley Region
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670

Re: Administrative Civil Liability Complaint No. R5-2005-0524 (Area 7-APN: 011-780-018)
Administrative Civil Liability Complaint No. R5-2005-0525 (Area 8-APN: 011-780-014)
Virginia L. Drake, Trustee, Drake Revocable Trust - Humboldt Road Burn Dump

Dear Mr. Landau:

I am writing to you in order to supplement the reference under item 2 of your report (Executive Officer's Report) to the Humboldt Road Burn Dump matter which is part of the agenda for the upcoming January 26th and 27th Water Board meeting in Sacramento. My client, Virginia L. Drake, believes that the Board needs to be made aware of more of the facts concerning the activities of the parties since the most recent meeting of the Board in late November.

After the November meeting, the responsible parties (RPs) agreed to meet in Sacramento on December 14th. Several parties, including my client, traveled from Chico to attend the meeting. We did not learn until after the meeting had commenced that no one from the City of Chico, including their counsel, planned to attend the meeting and one of the most important aspects of the meeting, we felt, was for the Board staff to restate its insistence that the City of Chico become an active participant in the cleanup of Area 8. Mr. Frank was apparently ill but he nevertheless instructed his counsel (Mr. Goldsberry) not to attend the meeting and apparently also did not bother to ask anyone else from the City to attend the meeting. This significantly restricted our ability to reach a consensus in terms of what to do as a group, but we agreed to meet again as soon as possible and before the next meeting of the Board.

Our next meeting occurred on January 4, 2006, at the City's offices in Chico. Mr. Frank and Mr. Goldsberry for the City of Chico were present during this meeting. From my client's perspective, the results of this meeting were disappointing in light of the fact that the City of Chico restated its refusal to participate in the clean up of Area 8 and made a number of matters abundantly clear. First, the Chico Redevelopment Agency's cell is, for reasons beyond anyone's control, unavailable for the parties to use to dispose of any of the waste from Area 8. There are

Kenneth D. Landau
Re: Humboldt Road Burn Dump
January 19, 2006
Page 2

apparently contractual disputes between the City, its consultant and the contractor, as well as other issues that make it highly undesirable for the City to allow any disposal activity on this site at this time. Second, a new City Manager and City Council are now in place and Mr. Frank has no direction at this time from his client in terms of what action it will authorize him to take in support of responding to the existing Cleanup and Abatement Orders or any future proposed activity to clean up Area 8. Mr. Frank indicated some willingness to discuss matters with his client, such as re-authorizing a past settlement offer by the City to make a financial contribution, but conceded he had nothing specific to offer at this time and gave no timetable concerning any followup activity.

Third, and perhaps most importantly, Mr. Frank made it very clear that his client still intends to aggressively dispute that there is any basis for it to have to respond to the Board's Cleanup and Abatement Orders, arguing that facts do not exist to establish a foundation for his client to even have to respond to the orders and essentially, as the City of Chico has argued many times before, that the City of Chico has no liability in this matter. Mr. Frank threatened to reinstate the City's Petition filed in response to the existing Cleanup and Abatement Order governing Area 8 and to appeal any adverse ruling on the Petition. The parties attempted to persuade Mr. Frank that ultimate liability for cleaning up the property was not the Board's concern and that the Board would fine any party that refused to cooperate in response to its orders. Mr. Frank's response was "I really don't care what the Board thinks."

On a more positive note, a consensus emerged on the part of the property owners, Mrs. Drake and the Simmonses (Ed Simmons was absent from both meetings due to illness but represented by counsel-Randall Nelson, Esq.), to participate in the expense of retaining consultants to obtain permits for the excavation and removal of the contaminated soils on both Areas 7 and 8. The parties are currently negotiating a written agreement to jointly share in the necessary expenses and the consultants are already at work. The Simmonses have discussed pursuing a cap in place remedy and need to review this further. My client remains committed to off-site disposal as the preferred alternative for disposal of the lead-based contaminated soils.

Lastly, as I have communicated to Mr. Pedri on previous occasions, my client continues to perceive a different standard of treatment accorded to the City of Chico by your staff, as opposed to that directed to the property owners. Despite clear evidence that the soils deposited on Area 8 came from the City of Chico's Bruce Road extension project which were excavated in late 1987, Mr. Frank and the City of Chico refuse to participate in any efforts to take action to clean up the property and instead threaten litigation. My client adamantly believes the Board must exercise its administrative powers and carry through with the threat of fines against the City of Chico in order to persuade the City to stop ignoring the Board's orders and cooperate in the cleanup process.

Kenneth D. Landau
Re: Humboldt Road Burn Dump
January 19, 2006
Page 3

Thank you for your prompt attention to these matters and if you have any questions concerning the same, please contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read 'K. Greg Peterson', with a long horizontal line extending to the right.

K. Greg Peterson

KGP/las

cc: Robert H. Schneider, Chair, CVRWQCB (via facsimile)
Frances McChesney, Esq. (via facsimile)
James C. Pedri (via facsimile)
Randall Nelson, Esq. (via facsimile)