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16 Goodrich Corporation

17 CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

18 IN THE MATTER OF PERCHLORATE
19 CONTAMINATION AT A 160-ACRE
20 SITE IN THE RIALTO AREA
21 (SWRCB/OCC FILE A-1824)

Case No.: SWRCB/OCC FILE A-1824

MOTION AND OBJECTION NO. 1

**GOODRICH CORPORATION'S NOTICE
OF MOTION AND MOTION TO RESCIND
HEARING NOTICE AND OBJECTION TO
AUTHORITY OF HEARING OFFICER**

[Filed concurrently with Declaration of Peter
R. Duchesneau and Exhibits]

Date: TBD

Time: TBD

Place: San Bernardino County Auditorium

22
23 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD IN THIS ACTION:

24 PLEASE TAKE NOTICE that on a day and time to be determined, before the
25 Chair of the State Water Resources Control Board, Tam Doduc, Goodrich Corporation
26 ("Goodrich") will and hereby does move the Hearing Officer to rescind the February 23,
27

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1 2007 Notice of Public Hearing in this matter and objects to the authority of the Hearing
2 Officer.

3 This motion is made pursuant to Sections 13304 and 13320 of the Water Code
4 and Section 2055 of Title 23 of the California Code of Regulations on the grounds that
5 the State Board has not adopted its own motion nor made any final decision to vest itself
6 with the authority of the California Regional Water Quality Control Board, Santa Ana
7 Region and that the State Board Chair and Executive Director and therefore acting
8 without authority in an *ultra vires* capacity.

9 Goodrich also hereby objects to the Hearing Notice and the procedures set forth
10 therein on the grounds stated herein.

11 This motion is based upon this Notice, the attached written Memorandum of
12 Points and Authorities, and such other evidence as may be presented at or prior to the
13 hearing on this matter.

14 Dated: March 5, 2007

Respectfully submitted,

15 MANATT, PHELPS & PHILLIPS, LLP
16 GIBSON, DUNN & CRUTCHER, LLP

17
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19 By: _____

Peter B. Duchesneau

20 *Attorney for Respondent*
21 GOODRICH CORPORATION
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1 **MEMORANDUM OF POINTS & AUTHORITIES**

2 Goodrich Corporation ("Goodrich") hereby respectfully objects to the authority of
3 the hearing officer and validity of the proceedings set forth in the February 23, 2007
4 Notice of Public Hearing (the "Hearing Notice") and moves to rescind the Hearing Notice.
5 The State Board is not vested with the authority to hear the cleanup and abatement
6 order proposed by the Regional Water Quality Control Board, Santa Ana Region (the
7 "Regional Board") staff. The State Board has not taken the matter up on its own motion
8 nor made any final decision pursuant to such a motion and therefore the hearing officer
9 is acting *ultra vires* and there is no authority for Hearing Notice. As a result, the Hearing
10 Notice should be immediately rescinded.

11 **I. BACKGROUND**

12 On January 30, 2007, the State Board dismissed the petitions of Goodrich
13 and Emhart Industries, Inc., SWRCB/OCC Files A-1797 and A-1797(a), concerning the
14 Regional Board's delegation of authority to Water Pettit under Resolution No. R8-2006-
15 0079 to hear a proposed cleanup and abatement order ("CAO") by Regional Board staff
16 concerning the 160-acre parcel in Rialto, California. Declaration of Peter R. Duchesneau
17 ("Duchesneau Decl."), Exhibit A. On January 31, 2007, Mr. Pettit resigned as the
18 hearing officer citing the State Board's concerns with his authority. Duchesneau Decl.,
19 Exh. B.

20 On February 5, 2007, Tom Howard serving as the Acting Executive
21 Director of the State Board (the "Executive Director") sent correspondence to the Chair
22 and Executive Officer of the Regional Board indicating that the State Board "is
23 considering reviewing this matter on its own motion, including all actions and inactions of
24 the Santa Ana Regional Water Quality Control Board's . . . regarding perchlorate
25 investigation and remediation in Rialto . . ." Duchesneau Decl., Exh. C. A new State
26 Board reference number and description, SWRCB/OCC File A-1824 entitled "Rialto-Area
27 Perchlorate Contamination", was assigned. In addition, Mr. Howard's February 5 letter
28 requested that the Regional Board submit to the State Board "the record for this matter

1 and all submissions from parties” by February 13, 2007.

2 On February 22, 2007, at a “Pre-Hearing Conference,” the State Board
3 Chair purportedly serving as a Hearing Officer indicated that “[o]n our own motion, the
4 State Water Board is going to be reviewing the entire matter of perchlorate
5 contamination in the Rialto area.” Duchesneau, Decl., Exh. D (Pre-Hearing Conference
6 Transcript, Feb. 22, 2007 (the “Transcript”), 8:4-7). The Chair refused to explain the
7 basis of her authority and to entertain or rule upon any objections or comments raised at
8 the Pre-Hearing Conference. Duchesneau, Decl., Exh. D (Transcript, 7:12-25; 8:1-2,
9 and 11:18-12:12.)

10 Thereafter, on February 23, 2007, without proper authority, the Hearing
11 Notice¹ was issued whereupon the Chair and the Executive Director unilaterally decided
12 to hold a hearing on the issuance of a CAO proposed by the Regional Board staff
13 concerning the 160-acre parcel without the State Board properly vesting itself with the
14 authority to do so. The State Board has not adopted a motion to review and has not
15 conducted a review nor made any finding as to whether the Regional Board’s actions or
16 inactions have been inappropriate or improper. The State Board has not decided how to
17 proceed, including whether directing the Regional Board to take appropriate action or
18 deciding to take action vesting itself with the authority of the Regional Board. Without
19 the State Board having done this, neither the State Board nor the Executive Director or
20 Chair serving as a hearing officer are vested with any powers or authority to hold a
21 hearing on the issuance of a CAO.

22 **II. STATE BOARD AUTHORITY**

23 The State Board and Regional Board have distinct authority and
24 responsibilities under the Water Code. While the State Board has certain abilities to step
25 into Regional Board matters and assume Regional Board authority, it must abide by and
26 assumed such authority according to the provisions of the Water Code.

27 _____
28 ¹ The Hearing Notice was issued on stationary of the “Executive Office” of the State Board, not by the State Board.

1 Water Code Section 13304 provides authority to the Regional Boards, not
2 the State Board, to issue a CAO. Should the State Board seek to hear and issue a
3 CAO, it must either do so pursuant to a petition or upon its own motion under to Water
4 Code Section 13320. In particular, "[t]he state board may, on its own motion, at any
5 time, review the regional board's action or failure to act." Water Code Section 13320(a).
6 Water Code Section 13320(c) further provides:

7 The state board may find that the action of the regional board, or failure of
8 the regional board to act, was appropriate and proper. Upon finding that
9 the action of the regional board, or the failure of the regional board to act,
10 was inappropriate or improper, the state board may direct that the
11 appropriate action be taken by the regional board, refer the matter to any
12 other state agency having jurisdiction, take the appropriate action itself, or
13 take any combination of those actions. In taking such action, the state
14 board is vested with all powers of the regional boards under this division.

15 State Board regulations further provide that "[w]hen review is undertaken
16 on the [State] board's own motion, all affected persons known to the board shall be
17 notified and given an opportunity to submit information and comments." Title 23,
18 California Code of Regulations, Section 2055. Any resolution for such a motion and
19 thereafter a decision by the State Board as to the actions of the Regional Board must be
20 made at a duly noticed, public meeting. Bagly-Keen Open Meeting Act, Gov. Code,
21 Section 11120, et seq.; Title 23, Cal. Code Reg., Section 647.2.

22 **III. THE CHAIR'S AND EXECUTIVE DIRECTOR'S ACTIONS ARE ULTRA VIRES**

23 The State Board has not adopted its own motion to review any action or
24 failure to act of the Regional Board pertaining the Rialto area perchlorate contamination.
25 As a result, there is no authority for the Hearing Notice and actions of the Hearing
26 Officer. The Hearing Notice provides that the hearing officer will conduct a hearing to
27 review a CAO proposed by the Regional Board staff. However, prior to any hearing of
28 the sort, the State Board needs to first decide to vest itself with the authority to do so. It
has not done so here.

1 **A. The Chair and Executive Director have Unilaterally Usurped the**
2 **Authority of the Regional Board and State Board**

3 An individual member of the State Board or the Executive Director cannot
4 unilaterally usurp the statutory authority vested with the Regional Board. Nor can they
5 take it upon themselves to usurp the authority of the State Board. The authority cited in
6 the Hearing Notice is misplaced. Any argument that the Chair and Executive Director
7 are acting pursuant to a delegation of authority is both factually and legally incorrect.

8 **1. The Authority Cited in the Hearing Notice is Misplaced**

9 The Hearing Notice ambiguously cites, under the heading of "Authority of
10 the Hearing and Legal Requirements", that:

11 The State Board may, on its own motion, at any time, review a regional
12 water quality control board's action or failure to act. (Water Code § 13320.)
13 In so doing, the State Water Board is vested with all the powers of the
14 regional board water quality control board. A single State Water Board
15 member is authorized to serve as Hearing Officer pursuant to Water Code
16 section 183. Previously, the State Water Board has delegated the
17 selection of a Hearing Officer to its Executive Director, in consultation with
18 the State Water Board's Chair. (SWRCB Resolution No. 2002-0104, ¶ 8
19 ...).

20 There are numerous reasons why this stated authority is misplaced. To start with,
21 despite the Hearing Notice indicating that the State Board "will review this matter on its
22 own motion," the State Board has neither made nor adopted its own motion authorizing
23 the Hearing Notice and has not vested itself with the powers of the Regional Board in
24 this matter.² As indicated above, to date, the State Board has taken no action. The
25 Executive Director's February 5, 2007 letter merely indicates that the State Board is
26 "considering" reviewing the matter of its own motion.

27 Second, while Water Code Section 183 allows that "a hearing or investigation by
28 the board may be conducted by any member upon authorization of the board," it is
29 limited to "powers vested in [the State Board]" and further requires that "any final action

² If the State Board has adopted and proceeded according to such a motion, it has done so in violation of the Bagly-Keen Open Meeting Act, Gov. Code, Section 11120, et seq. and Title 23, Cal. Code Reg., Sections 647.2 and 2055.

1 of the board shall be taken by a majority of all the members of the board at a meeting
2 duly called and held.” Water Code Section 183. In the matter at hand, there has been
3 no final action of the State Board vesting itself with the authority to act in place of the
4 Regional Board under Water Code Section 13304. In fact there is no motion adopted by
5 the State Board deciding to review the actions or inactions of the Regional Board, no
6 final decision by the State Board finding the Regional Board acted improperly or
7 inappropriately (after a properly noticed motion and conducting a proper review) to take
8 over the matter from the Regional Board, and no decision by the State Board to take
9 action itself by holding a hearing to consider a CAO limited to three parties concerning
10 the 160-acre site proposed by the Regional Board staff.

11 Third, Resolution No. 2002-0104³ specifically precludes the Executive
12 Director from taking “[a]ny final action pursuant to Water Code section 13320,
13 subdivision (c) finding that an RWQCB action was inappropriate or improper.”
14 Resolution, ¶ 3.4. The Hearing Notice, however, indicates that the “Executive Director,
15 in consultation with the State Water Board’s Chair,” selected the hearing officer (i.e., the
16 State Board Chair) to hold a hearing on the proposed CAO by the Regional Board staff
17 directly contrary to his delegation of authority. In essence, the Executive Director has
18 improperly decided on his own that the State Board should take away the matter from
19 the Regional Board, to hold a hearing on the proposed CAO by Regional Board staff,
20 and, thereafter, selected a hearing officer in consultation with the Board Chairperson.
21 Moreover, under the Resolution, the Executive Director may only select the hearing
22 officer for hearings and investigations covered under Water Code Section 183.
23 Resolution, ¶ 8. Water Code Section 183 specifically sets forth that the State Board may

24 ³ Goodrich further objects to the validity of the Resolution. The Resolution’s delegation of authority from
25 the State Board to the Executive Director is based upon and provides that “[p]ursuant to Water Code
26 section 7, the [State] Board is authorized to delegate authority to the Executive Director.” However, this
27 runs contrary to Water Code Section 7, which only provides “[w]henver a power is granted to, or a duty is
28 imposed upon, a public officer, the power may be exercised or the duty may be performed by a deputy of
the officer or by a person authorized, pursuant to law, by the officer, unless this code expressly provides
otherwise.” Water Code Section 7. Water Code Section 7 therefore is limited to delegations from “public
officers” to “deputies” and does not pertain to delegating authority the State Board to an Executive
Director.

1 only hold such hearings and conduct investigations "to carry out the powers vested in it."
2 As indicate above, until the State Board adopts its "own motion" to review the Rialto
3 perchlorate matter and thereafter makes a decision as to whether the Regional Board
4 action or inaction was appropriate or not and specifically decides to take appropriate
5 action itself, the State Board has not vested itself with the authority to hold such a
6 hearing.

7 **B. Any Claim that the Hearing Officer is Merely Investigating or Holding**
8 **a Hearing for the State Board to Determine taking up its Own Motion**
9 **is Unfounded**

10 Any claim that the contemplated hearing is merely a prelude to the State
11 Board deciding to review the matter of the Regional Board on its own motion is clearly
12 unfounded. Any argument that the hearing officer is reviewing the actions or inactions of
13 the Regional Board by holding a hearing on the CAO is contrary to the statements made
14 by the Executive Director and State Board Chair, the facts, and the law.

15 To start with, in his letter dated February 5, the Executive Director
16 indicated that the State Board "is considering reviewing the [Rialto-Area Perchlorate
17 Contamination] matter on its own motion," not the Regional Board staff's proposed CAO
18 limited to the 160-acre site.⁴ When the Regional Board's counsel requested clarification
19 as to the definition of the "matter" under review, counsel for the State Board responded:

20 I believe that the letter from Mr. Howard dated February 5, 2007
21 adequately answers your questions. ***That letter refers to the "matter"***
22 ***that the State Water Board will review by reference to the caption of***
23 ***the letter: The Rialto-Are Perchlorate Contamination.*** The review will
24 include "all actions and inactions of the [Santa Ana Board] regarding the
25 perchlorate investiation and remeidations (sic) since [February 28, 2005]."
26 Duchesneau, Decl., Exh. E (E-mail by E. Jennings to J. Leon, February 5,
27 2007.)

28 The State Board Chair again affirmed the scope of the contemplated State
Board review when she indicated at the February 22 Pre-Hearing Conference that "On

⁴ Likewise, the scope of the hearing is contrary to statements made by the Chair at the Pre-Hearing
Conference (e.g., "the hearing is all the matters concerning the perchlorate contamination that is before
the Regional Board.") Duchesneau, Decl., Exh. D (Transcript, 11:5-10).

1 our own motion, the State Water Board is going to be reviewing the entire matter of
2 perchlorate contamination in the Rialto area.” Duchesneau, Decl., Exh. D. Yet, the
3 Hearing Notice issued the very next day by the Chair, not only suddenly changed the
4 matter description without explanation to “Perchlorate Contamination at a 160-Acre Site
5 in the Rialto Area” but in doing so wrested authority from the Regional Board, vested the
6 authority in the State Board, and delegated authority to an individual board member to
7 hold a hearing on a draft CAO by the Regional Board staff.

8 The fact of the matter is that pursuant to the Hearing Notice, the State
9 Board Chair is not investigating or holding a hearing to review the actions or inactions of
10 the Regional Board so that the State Board may make a decision to adopt its own
11 motion or even whether to take over the Regional Board’s matter.⁵ Rather, the Chair
12 has jumped several steps ahead of her authority and will be holding a hearing to decide
13 the liability of the parties under an alleged CAO proposed by Regional Board staff, which
14 neither the Regional Board nor its Executive Officer has ever issued or held a hearing
15 on, and will thereafter make a recommendation for the State Board to adopt or otherwise
16 act upon the CAO.

17 **C. It is Premature for The State Board to Act at this Time**

18 The State Board may not and should not simply move to rubber stamp the Chair’s
19 and Executive Director’s *ultra vires* actions. It has not noticed or adopted a motion to
20 review the Regional Board’s actions, has not conducted such a review, and has not
21 provided the parties an opportunity to submit information and comments concerning a
22 review by it on its own motion as required by Title 23, Cal. Code Reg. Section 2055.
23 The past actions of the State Board Chair and Executive Director have been woefully

24 _____
25 ⁵ For instance, the Hearing Notice: (1) indicates that the “purpose of the hearing is to receive testimony
26 and evidence and to hear legal argument and policy statements on the following issues: legal
27 responsibility for site investigation and remediation . . . The scope of the hearing will cover the 160-acre
28 Rialto site, including but not limited to, perchlorate and trichloroethylene (TCE) contamination, sources,
responsible parties, investigation, and remedial actions”; (2) requires the Regional Board staff Advocacy
Team (not the Regional Board) to notify the State Board and the parties of the “pleading” it intends to use
by February 27, 2007, which is not a past action or inaction of the Regional Board; and (3) refers to the
proceedings as an “adjudicative proceeding”, not a review of the Regional Board’s actions.

1 inadequate. For instance, there was never proper notice or any opportunity, instruction
2 or deadline provided to submit comments on the records submitted by the Regional
3 Board. In fact, the Regional Board submitted records to the Executive Director on
4 February 9, 2007 pursuant to his February 5 letter. Despite Goodrich immediately
5 requesting a copy of the records on February 9, it did not receive a copy of the CD until
6 February 17 over President's Day Weekend, leaving just three business days before the
7 pre-hearing conference. Duchesneau, Decl., Exhs. F and G. Yet, at the Pre-Hearing
8 conference, the Chair acting as a hearing officer refused to provide an opportunity at the
9 conference for comments on the documents, on the scope of the State Board's review,
10 or of any other kind and admitted that she had neither fully reviewed the record
11 submitted or otherwise had particular knowledge as to the contamination in the Rialto
12 area or prior proceedings. Duchesneau, Decl., Exh. D (Transcript, 11:18-12:12; 19:3-
13 19:5; 58:15-59:2). Moreover, the notice for the Pre-Hearing Conference violated Water
14 Board regulations as no agenda was included with the notice. One was not provided
15 until the afternoon of the day before the conference. Duchesneau, Decl., Exhs. H and I.
16 Title 23, Code of Reg., Section 647.2 requires that the State Board provide at least one
17 week notice in advance of any meeting and that such notices must include an agenda
18 listing all items to be considered with a description of each item and any proposed action
19 to be taken. The proposed agenda was not only late but inadequate in its description in
20 violation of Water Board regulations.

21 **IV. CONCLUSION**

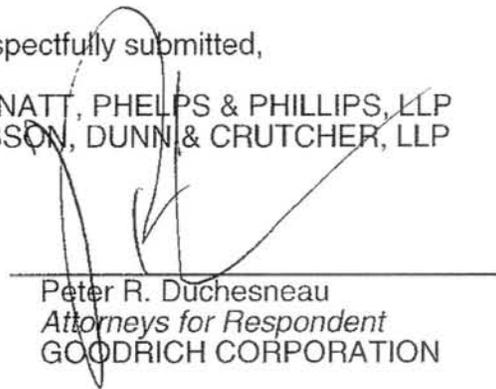
22 For the foregoing reasons, Goodrich respectfully objects to the authority of
23 the Hearing Officer and the Hearing Notice and requests that the Hearing Notice be
24 immediately rescinded.

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Dated: March 5, 2007

Respectfully submitted,
MANATT, PHELPS & PHILLIPS, LLP
GIBSON, DUNN & CRUTCHER, LLP

By: 
Peter R. Duchesneau
Attorneys for Respondent
GOODRICH CORPORATION

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DECLARATION

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10 Attorneys for Respondent
Goodrich Corporation

11 CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

12
13 IN THE MATTER OF PERCHLORATE
CONTAMINATION AT A 160-ACRE
14 SITE IN THE RIALTO AREA
(SWRCB/OCC FILE A-1824)

Case No.: SWRCB/OCC FILE A-1824

**DECLARATION OF PETER R.
DUCHESNEAU IN SUPPORT OF
RESPONDENT GOODRICH
CORPORATION'S MOTION TO RESCIND
HEARING NOTICE AND OBJECTION TO
AUTHORITY OF HEARING OFFICER
(MOTION AND OBJECTION NO. 1)**

**[Filed Concurrently With Motion to
Rescind Hearing Notice and Objection to
Authority of Hearing Officer (Motion and
Objection No. 1)]**

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DECLARATION OF PETER R. DUCHESNEAU

I, Peter R. Duchesneau, declare as follows:

1. I am an attorney duly licensed to practice in the State of California. I am a partner with the law firm of Manatt, Phelps & Phillips, LLP, counsel of record for Goodrich Corporation ("Goodrich") in State Water Resources Control Board ("State Board") Proceedings SWRCB/OCC File A-1824, and am submitting this declaration in support of Goodrich's concurrently-filed Motion to Rescind Hearing Notice and Objection to Authority of Hearing Officer ("Motion").

2. I am personally familiar with each and every matter stated herein and could competently testify thereto if called upon as a witness.

3. Attached hereto as Exhibit A is a true and correct copy of a January 30, 2007 letter by the Acting Executive Director of the State Water Board.

4. Attached hereto as Exhibit B is a true and correct copy of a January 31, 2007 letter from Mr. Pettit.

5. Attached hereto as Exhibit C is a true and correct copy of the February 5, 2007 letter from Tom Howard to the Chair and Executive Officer of the Regional Board.

6. Attached hereto as Exhibit D is a true and correct copy of excerpts from the transcript of the February 22, 2007 "Pre-Hearing Conference."

7. Attached hereto as Exhibit E is a true and correct copy of the February 5, 2007 email from Elizabeth Jennings to Jorge Leon.

8. Attached hereto as Exhibit F is a true and correct copy of a February 9, 2007 email from Peter Duchesneau to Elizabeth Jennings requesting a copy of the record mailed by the Regional Board staff on February 9, 2007.

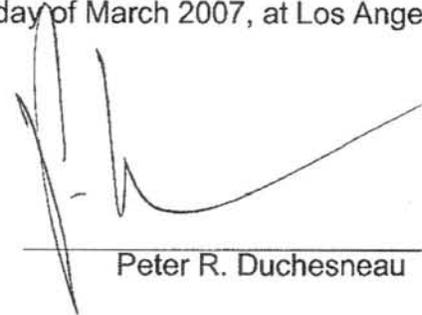
9. Attached as Exhibit G hereto is a true and correct copy of a February 20, 2007 letter from Peter Duchesneau to Karen O'Haire.

10. Attached hereto as Exhibit H is a true and correct copy of the February 13, 2007 "Notice of Pre-Hearing Conference."

11. Attached hereto as Exhibit I is a true and correct copy of e-mail

1 correspondence from Elizabeth Jennings, dated February 21, 2007 conveying an
2 agenda for the "Pre-Hearing Conference."
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4 I declare under penalty of perjury under the laws of the State of California
5 the foregoing is true and correct. Executed this 5th day of March 2007, at Los Angeles,
6 California.



Peter R. Duchesneau

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EXHIBIT A



Linda S. Adams
Secretary for
Environmental Protection

State Water Resources Control Board

Executive Office

Tam M. Doduc, Board Chair
1001 I Street • Sacramento, California 95814 • (916) 341-5615
Mailing Address: P.O. Box 100 • Sacramento, California • 95812-0100
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Arnold Schwarzenegger
Governor

JAN 31 2007

CERTIFIED MAIL AND EMAIL

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Dear Messrs. Duchesneau, Wyatt, and Meeder:

PETITIONS OF GOODRICH CORPORATION AND EMHART INDUSTRIES, INC., KWIKSET LOCKS, INC., KWIKSET CORPORATION, AND BLACK & DECKER INC. (RESOLUTION NO. R8-2006-0079 DIRECTING EXECUTIVE OFFICER TO DELEGATE AUTHORITIES IN INVESTIGATION AND CLEANUP AND ABATEMENT OF RIALTO PERCHLORATE SITE), SANTA ANA WATER BOARD: NO REVIEW OF PETITIONS
SWRCB/OCC FILES A-1797 AND A-1797(a)

After careful consideration, it is concluded that the petitions in this matter raise issues that are not appropriate for review by the State Water Resources Control Board (State Water Board) at this time. The petitions address a resolution that establishes authority to take future final actions, including issuance of a cleanup and abatement order pursuant to Water Code section 13304. As such, the adoption of the resolution is an interlocutory action precedent to a potential future cleanup and abatement order.

The interlocutory action of the regional water board is not subject to review by the State Water Board under Water Code section 13320. All entities subject to, or who may be affected by, any final action taken pursuant to Resolution No. R8-2006-0079 may timely petition such final action. At the time of final action, any challenge to the authority purportedly conveyed by Resolution No. R8-2006-0079 would be ripe. In other words, the issues raised in your present petitions may be raised again and considered by the State Water Board if the Santa Ana Regional Water Quality Control Board (Santa Ana Water Board) or its delegee takes a final action. The issues raised in such a petition may also include challenging the directions I provide below.

California Environmental Protection Agency

JAN 30 2007

I have reviewed Resolution No. R8-2006-0079 and it does appear to be inappropriately broad. Therefore, I strongly recommend the Santa Ana Water Board revise the resolution to limit the authority of the deputy Executive Officer (1) to act as an independent hearing officer for matters concerning perchlorate discharges at facilities located on the 160-acre site in Rialto, San Bernardino County, (2) to hold hearings, and (3) to make a recommendation to the Santa Ana Water Board.

If you have any questions about this matter, please contact Karen O'Haire, Senior Staff Counsel, in the State Water Board's Office of Chief Counsel, at (916) 341-5179.

Sincerely,



Thomas Howard
Acting Executive Director

cc: Mr. Bruce Amig [**via U.S. mail and email**]
bruce.amig@goodrich.com
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Mr. Gerard Thibeault [**via email only**]
Executive Officer
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Mr. Robert Holub [**via email only**]
Supervising Water Resource Control Engineer
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P.O. Box 100
Sacramento, CA 95812-0100

Interested Persons

EXHIBIT B



Linda S. Adams
Secretary for
Environmental Protection

California Regional Water Quality Control Board Santa Ana Region

3737 Main Street, Suite 500, Riverside, California 92501-3348
Phone (951) 782-4130 • FAX (951) 781-6288 • TDD (951) 782-3221
www.waterboards.ca.gov/santaana



Arnold Schwarzenegger
Governor

January 31, 2007

EMAIL AND U.S. MAIL

Mr. Tom Howard
Acting Executive Director
State Water Resources Control Board
1001 I Street, 22nd Floor [95814]
P.O. Box 100
Sacramento, CA 95812-0100
thoward@waterboards.ca.gov

Santa Ana Regional Water Quality
Control Board
c/o Ms. Carole Beswick, Chair
3737 Main Street, Suite 500
Riverside, CA 92501-3348
chbeswick@earthlink.net

Dear Mr. Howard and Members of the Santa Ana Regional Water Quality Control Board:

RIALTO-AREA PERCHLORATE CONTAMINATION; RESIGNATION AND TERMINATION OF PROCEEDINGS

I have carefully reviewed the January 30, 2007 letter from Acting Executive Director Howard to Messrs. Duchesneau, Wyatt and Meeder rejecting the petitions by Goodrich Corporation and Emhart Industries, Inc., et al., of the Santa Ana Regional Water Quality Control Board Resolution (No. R8-2006-0079) appointing me as Deputy Executive Officer/Hearing Officer in this matter. The letter opines that the Resolution "appears inappropriately broad," and recommends that my duties be restricted to holding a hearing and making a recommendation to the Regional Board for final action.

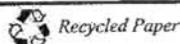
The recommendations in the letter would presumably result in substantial changes to Resolution No. R8-2006-0079, which defines the assignment I agreed to undertake. The disagreement between the State Board staff and the Regional Board is not likely to be clearly resolved soon, and a useful result is unlikely absent resolution. I am unwilling to proceed in accordance with the recommendations in the January 30 letter and to contend with any further resulting delay of the proceedings I have set in motion.

Therefore, please be advised that I hereby resign as Deputy Executive Officer/Hearing Officer and rescind all orders and determinations I have made to date in this case.

Walter Pettit
Hearing Officer

cc: See next page

California Environmental Protection Agency



Mr. Tom Howard
Santa Ana Regional Board Members

- 2 -

January 31, 2007

cc: [via email only]

Mr. Gerard Thibeault, Executive Officer
Santa Ana Regional Water Quality
Control Board
3737 Main Street, Suite 500
Riverside, CA 92501-3339

Jorge Leon, Esq.
Office of Enforcement
State Water Resources Control Board
1001 I Street, 16th Floor
P.O. Box 100
Sacramento, CA 95812-0100

Theodore A. Cobb, Esq.
Erik Spiess, Esq.
Office of Chief Counsel
State Water Resources Control Board
1001 I Street, 16th Floor
P.O. Box 100
Sacramento, CA 95812-0100

Perchlorate Email Subscription List



EXHIBIT C



Linda S. Adams
Secretary for
Environmental Protection

State Water Resources Control Board

Executive Office

Tam M. Doduc, Board Chair
1001 I Street • Sacramento, California 95814 • (916) 341-5615
Mailing Address: P.O. Box 100 • Sacramento, California • 95812-0100
Fax (916) 341-5621 • <http://www.waterboards.ca.gov>



Arnold Schwarzenegger
Governor

February 5, 2007

VIA U.S. MAIL AND EMAIL

Mr. Walter Pettit [via U.S. mail & email]
Sacramento Water Forum
660 J Street, Suite 260
Sacramento, CA 95814
walterpettit@sbcglobal.net

Ms. Carole Beswick [via U.S. & email only]
Board Chair
Santa Ana Regional Water Quality
Control Board
3737 Main street, Suite 500
Riverside, CA 92501-3339

Mr. Gerard Thibeault [via U.S. & email only]
Executive Officer
Santa Ana Regional Water Quality
Control Board
3737 Main street, Suite 500
Riverside, CA 92501-3339

Dear Mr. Pettit, Mr. Thibeault and Ms. Beswick:

RIALTO-AREA PERCHLORATE CONTAMINATION: OWN MOTION REVIEW SWRCB/OCC FILE A-1824

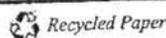
The State Water Resources Control Board (State Water Board) intends to hold a hearing on this matter at the earliest possible date. It is considering reviewing this matter on its own motion, including all actions and inactions of the Santa Ana Regional Water Quality Control Board's (Santa Ana Water Board) regarding the perchlorate investigation and remediation in Rialto since the issuance of a cleanup and abatement order on February 28, 2005.

In preparation for its review, please submit to the State Water Board the record for this matter and all submissions from parties and interested persons, draft and final orders, determinations, notices, and rulings since that time. **The record shall be received by the State Water Board by February 13, 2007.** The submission shall be addressed to Elizabeth Miller Jennings in the Office of Chief Counsel at the address on this letter. Any person who seeks a copy of this record shall make arrangements with Ms. Jennings.

All comments, questions and correspondence shall be in writing, by email, fax, mail, or personal service. All persons submitting such correspondence shall also send copies to all of the persons shown on this letter as receiving a copy and to Mr. Thibeault.

Information on hearing dates and procedural requirements will be sent in the near future.

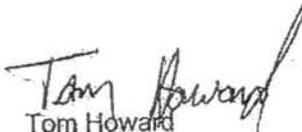
California Environmental Protection Agency



**IN ALL FUTURE CORRESPONDENCE, PLEASE REFER TO
SWRCB/OCC FILE A-1824**

Future correspondence regarding this matter will be sent in hard copy only to Mr. Thibeault and to those persons whose names and addresses appear on this letter as receiving copies. Interested persons (including those who received this letter via e-mail) will not receive future correspondence unless they either (1) subscribe to the electronic mailing list named "A-1824 Rialto Perchlorate Contamination" on the internet at http://www.waterboards.ca.gov/lyrisforms/swrcb_subscribe.html to receive future correspondence via e-mail or (2) request to receive future correspondence in hard copy by writing to Chrissie Bashaw at the Office of Chief Counsel at the address in the letterhead above. You should act as soon as possible to ensure you receive all items of future correspondence.

Sincerely,


Tom Howard
Acting Executive Director

cc: Mr. Peter R. Duchesneau [via U.S. mail & email]
Manatt, Phelps & Phillips LLC
11355 West Olympic Boulevard
Los Angeles, CA 90064-1614
pduchesneau@manatt.com

Mr. Robert D. Wyatt [via U.S. mail & email]
rwatt@allenmatkins.com
Mr. James L. Meeder [via U.S. mail & email]
jmeeder@allenmatkins.com
Allen Matkins Leck Gamble Mallory
& Natsis LLC
3 Embarcadero Center, 12th Floor
San Francisco, CA 94111-4074

Mr. Bruce Amig [via U.S. mail & email]
bruce.amig@goodrich.com
Goodrich Corporation
Four Coliseum Center
2730 W. Tyvola Road
Charlotte, NC 28217-4578

Mr. Philip C. Hunsucker
[via U.S. mail & email]
phunsucker@reslawgrp.com
Mr. Erik S. Mroz [via U.S. mail & email]
emroz@resolutionlawgroup.com
Resolution Law Group
21800 Oxnard Street, Suite 780
Woodland Hills, CA 91367

Continued next page

cc: Steven J. Elie, Esq. **[via U.S. mail & email]**
s.elie@mpglaw.com
Barry C. Groveman, Esq.
[via U.S. mail and email]
bgroveman@earthlink.net
Musick, Peeler & Garrett LLP
One Wilshire Boulevard
Los Angeles, CA 90017

Mr. Kurt V. Berchtold **[via email only]**
Assistant Executive Officer
Santa Ana Regional Water Quality
Control Board
3737 Main street, Suite 500
Riverside, CA 92501-3339

Jorge A. León, Esq. **[via email only]**
Office of Enforcement
State Water Resources Control Board
1001 I Street, 16th Floor
P.O. Box 100
Sacramento, CA 95812-0100

Interested Persons

Ms. Ann Sturdivant **[via email only]**
Senior Engineering Geologist
Santa Ana Regional Water Quality
Control Board
3737 Main street, Suite 500
Riverside, CA 92501-3339

Mr. Robert Holub **[via email only]**
Supervising Water Resource Control Engineer
Santa Ana Regional Water Quality
Control Board
3737 Main street, Suite 500
Riverside, CA 92501-3339

Erik Spiess, Esq. **[via email only]**
Office of Chief Counsel
State Water Resources Control Board
1001 I Street, 22nd Floor
P.O. Box 100
Sacramento, CA 95812-0100

EXHIBIT D

022207

IN THE MATTER OF
RIALTO AREA PERCHLORATE CONTAMINATION

---o0o---

PRE-HEARING CONFERENCE
THURSDAY, FEBRUARY 22, 2007

---o0o---

HELD AT:
California Environmental Protection Agency
Headquarters Building
1001 I Street
Sacramento, California

Reported By: PHYLLIS MANK, CSR No. 5093

□

1 SACRAMENTO, CALIFORNIA
2 THURSDAY, FEBRUARY 22, 2007
3 ---o0o---
4 CHAIRPERSON DODUC: Good morning, everyone.
5 This is a pre-hearing conference for the State water
6 Resources Control Board upcoming evidentiary hearing on
7 the rialto area perchlorate contamination.

11 responsibility, technical need of cleanup -- technical
12 need for investigation and cleanup, I should say,
13 feasibility of cleanup and appropriate cleanup standards
14 and protection of public health. We may use work that
15 the Regional Water Board has said is helpful or useful.

16 On behalf of the state water Board, I will be
17 conducting an evidentiary hearing. We will be
18 conducting the hearing in an expeditious, transparent
19 and orderly manner.

20 The purpose of today's meeting is for me to
21 share with you my plans for conducting the evidentiary
22 hearing. As I said before, I will entertain some
23 questions and comments with respect to how we can assure
24 that this process proceeds expeditiously, orderly and
25 transparently.

8

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

□

1 Everything we discuss today, everything I
2 mentioned today, all the conditions stated will be set
3 forth in the hearing notice that will be issued
4 tomorrow, and the final requirements in that notice will
5 supersede anything said today.

6 So that's the basic background information as
7 to why we're here and how we're going to proceed with
8 the rest of the meeting today. Now, let's get to the
9 part that you all probably want to know about. That is,
10 the basic information on the hearings, the dates, times

13 don't know whether that is focused on the --

14 CHAIRPERSON DODUC: My intention is the whole
15 area, 60 acre area.

16 MR. ELIE: when you say the whole area, it
17 becomes a lot more than what's in this room today.

18 MR. MOYER: Madam Chair, I'd like to object to
19 the dates. Again, all of this is very difficult without
20 knowing what the scope of the hearing is. But just
21 again, for the record, I'd like to object to the timing
22 of the hearing, the location of the hearing. Again,
23 also need to object to the parties that have been --
24 you've designated since, again, we don't know what the
25 scope of the hearing is.

12

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1 MR. DINTZER: This is Jeffrey Dintzer for
2 Goodrich.

3 CHAIRPERSON DODUC: I thought you weren't
4 going to be the spokesperson. Please keep it short.

5 MR. DINTZER: As Mr. Meeder pointed out, we
6 don't know what the charging allegations are with
7 respect to this hearing. Beyond that, you have
8 unilaterally set the dates without respect --

9 CHAIRPERSON DODUC: Sir, I have told you my
10 plans to conduct the hearing. You will have an
11 opportunity to file a pre-hearing motion. Today is not
12 the time or place to argue these matters.

16 binders, and it is close to incoherent, especially in
17 terms of its completeness so long as we don't know what
18 the issues are, what the complaint is with regard --

19 CHAIRPERSON DODUC: Please go ahead and include
20 that in your pre-hearing motion.

21 MR. LEON: Jorge Leon. We tried to follow the
22 directions given by the State Board and that's how we
23 created the record that you all have.

24 CHAIRPERSON DODUC: Let's move to agenda item
25 number five. This will be important for those who are

19

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

D

1 designated parties because we have some deadlines to
2 meet.

3 First of all, let me make two general
4 statements. First, all documents must be submitted in
5 hard copies by the final date. Any presentation that
6 you plan to make using a computer should also submitted
7 in hard copy. And any presentation can be e-mailed.

8 Obviously, all documents must be served on all
9 designated parties. That means, anything you submit to
10 the State Water Board for consideration you must send to
11 all the designated parties so they can receive it at the
12 same time the State Water Board does.

13 As I said before, all submissions will be by
14 5:00 p.m. on the dates that I give you. The three dates
15 that you will need to know are: March 2nd, March 9th
16 and March 20th.

5 I will consider all the suggestions that have been made
6 by the parties with respect to some of the timing
7 delays.

8 But, ultimately, I will outline the parameters,
9 the times, the dates in the notice I will issue
10 tomorrow, and you will have the opportunity, again, to
11 file pre-hearing motions and objections on all the
12 procedural matters that you wish.

13 But I do appreciate the offer and the open
14 invitation for discussion among the parties.

15 MR. BLOOMFIELD: Tom Bloomfield on behalf of
16 the county. My understanding, based on the discussions
17 we've had so far, is that the hearing will be limited to
18 the 160 acre parcel issues. I guess my question is, if
19 that's not the case, I'd like to advocate it should be
20 so limited.

21 Before I do that, I want to see if, in fact,
22 you're still considering a more broad examination or
23 intend to be more focused on the tentative order that
24 was issued in the fall as relates to the 160 acre
25 parcel.

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1 CHAIRPERSON DODUC: I really do not need to
2 hear any other arguments on this point at this time.

3 MR. MEEDER: Jim Meeder. My wife and I have a
4 vacation planned starting the week of the 26th of March,

5 so I will report dutifully to her that I raised this
6 issue with you and --

7 CHAIRPERSON DODUC: If you'd like, I will send
8 you a written notice.

9 Anyone on the telephone -- I want to make sure
10 the participants on the telephone have the opportunity
11 to also comment at this time. Not hearing anything, all
12 right.

13 I thank everyone. I appreciate your
14 participation today. I really do appreciate your
15 comments and objections. Let me assure you, just
16 because we're moving expeditiously does not mean I am
17 unaware of the significance of this matter.

18 I will consider all the due process that is
19 involved in judicial proceedings. We will proceed in an
20 orderly, fair and expeditious process that addresses the
21 issues in the Rialto area with regard to the perchlorate
22 issues.

23 So I look forward to seeing all of you at the
24 hearings, and we'll see you again on this issue.

25 (Proceedings concluded.)

□

REPORTER'S CERTIFICATE

---o0o---

1
2
3
4
5

STATE OF CALIFORNIA)

) ss.
Page 59

6 COUNTY OF SACRAMENTO)

7

8

9

I, PHYLLIS MANK, certify that I was the
10 official Court Reporter, that I reported in shorthand
11 writing the foregoing proceedings to the best of my
12 ability; that I thereafter caused my shorthand writing
13 to be reduced to typewriting, and the pages numbered 1
14 through 60, inclusive, constitute a complete, true and
15 correct record of said proceedings:

16

17

18

19

In witness whereof, I have subscribed this
certificate at Sacramento, California, on this 24th day
of February, 2007.

20

21

22

PHYLLIS MANK, CSR No. 5093

23

24

25

61

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

□

EXHIBIT E

From: Betsy Jennings [mailto:BJennings@waterboards.ca.gov]

Sent: Monday, February 05, 2007 4:02 PM

To: Jorge Leon; Tom Howard

Cc: jmeeder@allenmatkins.com; rwyatt@allenmatkins.com; Duchesneau, Peter; CCarrigan@mmlaw.com; s.elie@mpglaw.com; julie.macedo@pillsburylaw.com; scott.sommer@pillsburylaw.com; phunsucker@reslawgrp.com; Ann Sturdivant; Erik Spiess; Gerard Thibeault; Kurt Berchtold; Karen O'Haire; Philip Wyels; Robert Holub; Ted Cobb

Subject: Re: SWRCB/OCC File No. 1824 - letter of February 5, 2007

Mr. Leon: I believe that the letter from Mr. Howard dated February 5, 2007 adequately answers your questions. That letter refers to the "matter" that the State Water Board will review by reference to the caption of the letter: The Rialto-Are Perchlorate Contamination. The review will include "all actions and inactions of the [Santa Ana Board] regarding the perchlorate investigation and remediations since [February 28, 2005]." The documents that must be submitted should all be in the possession of the Santa Ana Water Board. Thus, documents held only by the parties, including the Advocacy staff and the potentially responsible parties, need not be submitted at this time. As stated in the letter, the State Water Board will shortly hold a hearing on the matter and instructions for submitting documents that are currently held only by the parties will be forthcoming shortly.

Elizabeth (Betsy) Miller Jennings
Staff Counsel IV
State Water Resources Control Board
1001 I Street, 22nd floor
Sacramento, CA 95814
phone: 916-341-5175
fax: 916-341-5199
cell: 916-799-5417
email: bjennings@waterboards.ca.gov

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>>> Jorge Leon 2/5/2007 3:49 PM >>>

Dear Mr. Howard and Ms. Jennings:

This letter is sent to you on behalf of the Advocacy Staff. The Advocacy Staff has been formed to advocate the issuance of a Cleanup and Abatement Order to the parties named in Amended CAO No. R8-2005-0053. We are in receipt of your letter of February 5, 2007. In accordance with the instructions in that letter, this email is to seek clarification of your directive. We request a response at your earliest convenience in order to properly respond to the deadline set forth in your letter.

Your letter indicates that the State Board intends to hold a hearing "on this matter" and that it is ..."considering reviewing this matter on its own motion, including all actions and inactions of the Santa Ana Regional Water Quality Control Board's (Santa Ana Regional Water Board) regarding the perchlorate investigation and remediation in Rialto since the issuance of a cleanup and abatement order on February 28, 2005." The letter goes on to direct submittal of "the record for this matter and all submissions

3/5/2007

from parties and interested persons, draft and final orders, determinations, notices, and rulings since that time (February 28, 2005)." We are not certain, but it appears that the State Board intends to review at this time all issues raised by the delegation made to Walt Pettit, but not the merits of the CAO.

We request clarification of two questions: (1) Does the State Board intend to review the merits of the Amended Cleanup and Abatement Order, No. R8-2005-0053, in addition to the Santa Ana Regional Water Board's Resolution No. R8-2006-0079, delegating hearing authority to Mr. Walt Pettit?; (2) Does the State Board request that, in addition to the record of this proceeding since February 28, 2005, the Advocacy Staff submit the evidence that supports issuance of the Amended CAO against the named parties? We ask this second question because the volume of material involved is extremely large and because the Advocacy Staff had not intended to submit those documents until directed to do so by the presiding officer who will hear the merits of the CAO. Respectfully submitted.

Jorge A. Leon
Senior Staff Counsel
Office of Enforcement
State Water Resources Control Board
1001 I St., Sacramento, CA 95814
Phone: (916) 341-5180
Fax: (916) 341-5284
jleon@waterboards.ca.gov

3/5/2007

EXHIBIT F

-----Original Message-----

From: Duchesneau, Peter

Sent: Friday, February 09, 2007 4:23 PM

To: 'Wyatt, Robert'; Nedda Saremi; bgroveman@earthlink.net; chbeswick@earthlink.net;
bruce.amig@goodrich.com; S.Elie@MPGLAW.com; philip.hunsucker@resolutionlawgroup.com; Erik Spiess; Jorge
Leon; Walt Pettit

Cc: Ann Sturdivant; Betsy Jennings; Debi Ney; Gerard Thibeault; Kurt Berchtold; Robert Holub

Subject: RE: Rialto Area Perchlorate Contamination; SWRCB/OCC File A-1824

Dear Ms. Jennings,

Please also forward me a copy of the CD. Thank you.

Peter R. Duchesneau
Manatt, Phelps & Phillips, LLP
11355 W. Olympic Blvd.
Los Angeles, CA 90064
Telephone: (310) 312-4000

Facsimile: (310) 312-4224

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-----Original Message-----

From: Wyatt, Robert [mailto:rwyatt@allenmatkins.com]

Sent: Friday, February 09, 2007 4:16 PM

To: Nedda Saremi; bgroveman@earthlink.net; chbeswick@earthlink.net; bruce.amig@goodrich.com; Duchesneau, Peter; S.Elie@MPGLAW.com; philip.hunsucker@resolutionlawgroup.com; Erik Spiess; Jorge Leon; Walt Pettit

Cc: Ann Sturdivant; Betsy Jennings; Debi Ney; Gerard Thibeault; Kurt Berchtold; Robert Holub

Subject: RE: Rialto Area Perchlorate Contamination; SWRCB/OCC File A-1824

Dear Ms. Jennings,

Regarding the above referenced matte, kindly arrange to have a copy forwarded to me of the CD containing the "administrative record" as submitted by the SARWQCB Executive Officer's correspondence earlier this afternoon. Thank you in advance for your assistance.

Robert D. Wyatt
Allen Matkins Leck Gamble Mallory & Natsis LLP
3 Embarcadero Center, 12th Floor
San Francisco, CA 94111
Tel: 415-273-7420
Fax: 415-837-1516

-----Original Message-----

From: Nedda Saremi [mailto:NSaremi@waterboards.ca.gov]

Sent: Friday, February 09, 2007 3:59 PM

To: Wyatt, Robert; bgroveman@earthlink.net; chbeswick@earthlink.net; bruce.amig@goodrich.com; pduchesneau@manatt.com; S.Elie@MPGLAW.com; philip.hunsucker@resolutionlawgroup.com; Erik Spiess; Jorge Leon; Walt Pettit

Cc: Ann Sturdivant; Betsy Jennings; Debi Ney; Gerard Thibeault; Kurt Berchtold; Robert Holub

Subject: Rialto Area Perchlorate Contamination; SWRCB/OCC File A-1824

Please see attached document

IRS Circular 230 Disclosure: To ensure compliance with requirements imposed by the IRS, please be advised that any U.S. federal tax advice contained in this communication (including any attachments) is not intended or written to be used or relied upon, and cannot be used or relied upon, for the purpose of (i) avoiding penalties under the Internal Revenue Code, or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

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intended only for the use of the intended recipient and may be confidential and/or privileged. If any reader of this communication is not the intended recipient, unauthorized use, disclosure or copying is strictly prohibited, and may be unlawful. If you have received this communication in error, please immediately notify the sender by return e-mail, and delete the original message and all copies from your system. Thank you.

EXHIBIT G

February 20, 2007

Client-Matter: 24369-060

BY E-MAIL

Karen O'Haire, Esq.
Senior Staff Counsel
State Water Resources Control Board
1001 I Street, 25th Floor
P.O. Box 100
Sacramento, CA 95814

Re: Rialto-Area Perchlorate Contamination; SWRCB/OCC File A-1824

Dear Ms. O'Haire:

Goodrich Corporation has received the Notice of Pre-Hearing Conference ("Pre-Hearing Conference Notice") scheduled for February 22, 2007 with respect to the above-referenced matter. Goodrich intends to attend the conference but wishes to express its reservations over the ambiguity of the agenda and State Water Resources Control Board's intended proceedings. To start with, the Pre-Hearing Conference Notice indicates that the scope of the hearing, the designation of parties, and any other appropriate procedural issues will be discussed. However, without additional detail as to exactly what the State Board intends to review on its own motion and hold a hearing on, Goodrich is limited in its ability to participate at the Pre-Hearing Conference or otherwise provide input to the State Board. Likewise, despite immediately requesting a copy of the administrative record submitted by Regional Board staff on February 9, 2007, a copy was only received over the past weekend. Goodrich will therefore be unable to address the Regional Board's submittal at the conference.

manatt

manatt | phelps | phillips

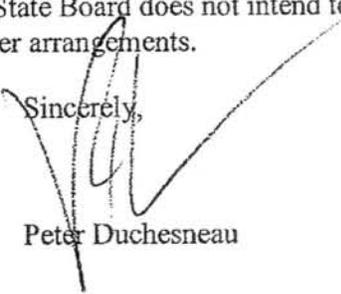
Ms. Karen O'Haire, Esq.

February 20, 2007

Page 2

Further, Goodrich respectfully requests that the hearing officer referenced in the Pre-Hearing Conference Notice be identified and asks that a court reporter be provided by the State Board for the Pre-Hearing Conference. If the State Board does not intend to have a court reporter, please let me know so I can make other arrangements.

Sincerely,



Peter Duchesneau

cc: E-mail list for SWRCB/OCC File A-1824

41088134.1

EXHIBIT H



Linda S. Adams
Secretary for Environmental
Protection

State Water Resources Control Board



Arnold Schwarzenegger
Governor

Executive Office

Tam M. Doduc, Board Chair
1001 I Street • Sacramento, California 95814 • (916) 341-5615
Mailing Address: P.O. Box 100 • Sacramento, California • 95812-0100
Fax (916) 341-5621 • <http://www.waterboards.ca.gov>

NOTICE OF PRE-HEARING CONFERENCE

The State Water Resources Control Board will hold a pre-hearing conference to consider administrative and procedural matters pertaining to its upcoming hearing on the Rialto-Area Perchlorate Contamination

The Pre-hearing status conference will commence
on February 22, 2007
at
10:00 a.m.

Cal/EPA Building
1001 I Street
Conference Room 350
Sacramento, California

and by telephone at

(916) 574-1755

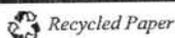
BACKGROUND

Since 2002, the Santa Ana Regional Water Quality Control Board (Santa Ana Water Board) has been conducting an investigation of groundwater contamination in the area of the City of Rialto. The 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 and subsequent amendments naming a number of responsible parties.

(See <http://www.waterboards.ca.gov/santaana/pdf/05-53.pdf>.) It is in the best interest of all participants that the hearings pertaining to this matter proceed in a fair, expeditious, and cost-effective manner. Any investigation and remediation should likewise occur expeditiously.

The Cleanup and Abatement Order is the subject of challenges in petitions filed by various entities named as responsible parties. In light of the various objections and appeals, and the need to take action in an expeditious manner, the State Water Resources Control Board (State Water Board) has decided to review this matter on its own motion. An evidentiary hearing will be conducted by the State Water Board to determine whether to amend or reissue the Cleanup and Abatement Order for the investigation and remediation of perchlorate in the Rialto area, or take such other action the State Water Board deems appropriate.

California Environmental Protection Agency



PURPOSE OF THE PRE-HEARING CONFERENCE

The State Water Board intends to hold a hearing on the Rialto-Area Perchlorate Contamination. The hearing will be held in the area of Rialto or San Bernardino, at a date to be announced. The hearing officer will conduct a pre-hearing conference on Thursday February 22, 2007 at 10:00 a.m. to discuss the scope of the hearing, the designation of parties, and any other appropriate procedural issues. The goal of the pre-hearing conference is to ensure that the hearing proceeds in an orderly and expeditious manner. There will be no discussion during the pre-hearing conference of any substantive issues regarding the Rialto-Area Perchlorate Contamination.

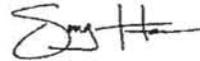
LOCATION AND ACCESSIBILITY

People may attend the meeting in person at the Cal/EPA Building or via telephone by calling (916) 574-1755. The Cal/EPA Building is accessible to people with disabilities. Public parking is available across the street from the building. A map of the exact location is attached to this notice.

Individuals who require special accommodations are requested to contact Adrian Perez at (916) 341-5880 at least five (5) working days prior to the pre-hearing conference.

IF YOU HAVE ANY QUESTIONS

Questions concerning the pre-hearing conference may be addressed to Karen O'Haire, Senior Staff Counsel, at (916) 341-5179 or at kohaire@waterboards.ca.gov.



Song Her
Clerk to the Board

Dated: February 13, 2007

Attachment

EXHIBIT I

From: Betsy Jennings [mailto:BJennings@waterboards.ca.gov]

Sent: Wednesday, February 21, 2007 2:33 PM

To: jmeeder@allenmatkins.com; rwyatt@allenmatkins.com; davin.d@ccaej.org; bgroveman@earthlink.net; bruce.amig@goodrich.com; Duchesneau, Peter; CCarrigan@mmlaw.com; R.Hiete@mpglaw.com; S.Elie@mpglaw.com; w.carter@mpglaw.com; julie.macedo@pillsburylaw.com; scott.sommer@pillsburylaw.com; btagon@reslawgrp.com; phunsucker@reslawgrp.com; emroz@resolutionlawgroup.com; refkin@thegallaghergroup.com; tbloomfield@thegallaghergroup.com; Ann Sturdivant; Debi Ney; Erik Spiess; Gerard Thibeault; Jorge Leon; Kurt Berchtold; Robert Holub

Subject: Agenda for Pre-Hearing Conference on Rialto-Area Perchlorate Contamination (A-1771)

Attached is the agenda for tomorrow's pre-hearing conference.

Elizabeth (Betsy) Miller Jennings
Staff Counsel IV
State Water Resources Control Board
1001 I Street, 22nd floor
Sacramento, CA 95814
phone: 916-341-5175
fax: 916-341-5199
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3/5/2007

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3/5/2007



Linda S. Adams
Secretary for
Environmental Protection

State Water Resources Control Board

Executive Office

Tam M. Doduc, Board Chair
1001 I Street • Sacramento, California 95814 • (916) 341-5615
Mailing Address: P.O. Box 100 • Sacramento, California • 95812-0100
Fax (916) 341-5621 • <http://www.waterboards.ca.gov>



Arnold Schwarzenegger
Governor

AGENDA FOR PRE-HEARING CONFERENCE

In the Matter of

RIALTO-AREA PERCHLORATE CONTAMINATION SWRCB/OCC FILE A-1824

February 22, 2007 at 10:00 a.m.

Cal/EPA Building
1001 I Street
Conference Room 350
Sacramento, California

and by telephone at

(916) 574-1755

1. Introductions
2. Background
 - a. State Board's role
 - b. Scope of proceedings
 - c. Purpose of this meeting
3. Basic information on the hearing
 - a. Hearing date and time
 - b. Hearing location
4. Party designation
5. Submissions prior to the hearing
6. Conduct of the hearing
7. Logistics of the hearing
8. After the hearing

California Environmental Protection Agency