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June 15, 2015

VIA EMAIL (Adrianna.Crowl@waterboards.ca.gov)

Adrianna Crowl, Staff Services Analyst
State Water Resources Control Board
Office of Chief Counsel
1001 "I" Street, 22nd Floor
Sacramento, CA 95814

Re: Petition for Review of Regional Board Order dated May 15, 2015,
Directed to Macpherson Oil Company

Dear Ms. Crowl:

This letter is sent to correct the letter that we sent earlier today on behalf of Macpherson Oil Company. Earlier today we submitted a Petition For Review of Regional Board Order, and For Hearing On Petition, and Petition For Stay Of Regional Board Order Pending Hearing or Other Action In The Matter Of May 15, 2015 Order Of The Central Valley Regional Water Quality Control Board Directing Macpherson Oil Company To Submit Information and Take Other Action With Respect To 29 Injection Wells (Water Code Section 13267). Both the "re" line and body of that letter used the phrase "Notice of Violation," rather than the word "Order." That phrase was in error, as Macpherson Oil Company's petition concerns a Regional Board Order, not a notice of violation.

We apologize for any confusion caused by our error.

BRIGHT AND BROWN
ATTORNEYS AT LAW

Adrianna Crowl, Staff Services Analyst
June 15, 2015
Page 2

If you have any questions, please contact me at (818) 243-2121.

Very truly yours,

A handwritten signature in black ink, appearing to read "Brian L. Becker", written in a cursive style.

Brian L. Becker

BLB:sjb

cc: via email (Clay.Rodgers@waterboards.ca.gov)

Clay L. Rodgers
Assistant Executive Officer
Central Valley Regional Water
Quality Control Board
1685 E Street
Fresno, CA 93706

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Attorneys for Petitioner
Macpherson Oil Company

STATE OF CALIFORNIA

STATE WATER RESOURCES CONTROL BOARD

In the Matter of May 15, 2015 Order Of The
Central Valley Regional Water Quality
Control Board Directing Macpherson Oil
Company To Submit Information and Take
Other Action With Respect To 29 Injection
Wells (Water Code Section 13267)

File No. _____

PETITION FOR REVIEW OF REGIONAL
BOARD ORDER, AND FOR HEARING ON
PETITION

(Wat. Code, § 13320; Cal. Code Regs.,
tit. 23, §§ 2050-2068)

PETITION FOR STAY OF REGIONAL
BOARD ORDER PENDING HEARING OR
OTHER ACTION

(Wat. Code, § 13321; Cal. Code Regs.,
tit. 23, § 2053)

Petitioner Macpherson Oil Company (“Macpherson”) hereby petitions for review by the State Water Resources Control Board (the “State Board”) of a May 15, 2015 order (the “Order”) of the Central Valley Regional Water Quality Control Board (the “Regional Board”), and a hearing on this Petition.

Macpherson also requests a stay of the Regional Board’s Order pending a hearing or other action on this Petition by the State Board. The cost to obtain the information required by the Order is estimated to cost over \$1 Million, would require many months to perform, result in millions of dollars of lost production and provide samples that will be identical to the fluids

being injected in light of the large volume of injected water for over 38 years into the subject formation. Moreover, Macpherson recently submitted its “Aquifer Exemption Study Round Mountain Field” in April 2015 (“Aquifer Exemption Study”) at the request of the Division of Oil Gas and Geothermal Resources (“DOGGR”) that contains extensive information involving all of the injection wells in the Round Mountain Field, including the 29 wells that are the subject of the Order, and a copy of which Macpherson provided to the Regional Board as part of its proposed work plan in response to in the Order. There is no reason for the expensive and disruptive requirements of the Regional Board’s Order in light of the information Macpherson has provided in the Aquifer Exemption Study, which study cost Macpherson hundreds of thousands of dollars.

A. PETITION FOR REVIEW

1. Name, Address, Telephone Number And E-Mail Address Of The Petitioner.

Macpherson Oil Company
100 Wilshire Boulevard, Suite 800
Santa Monica, CA 90401
310.452.3880

Please direct notices and other communications to:

Macpherson Oil Company
c/o Bright and Brown
550 North Brand Boulevard, Suite 2100
Glendale, CA 91203
818.243.2121
mbright@brightandbrown.com

2. The Action Or Inaction Of The Regional Water Board Being Petitioned, Including A Copy Of The Action Being Challenged.

The Regional Board’s Order directs Macpherson to obtain and submit certain information and take other actions with respect to 29 currently-active water injection wells that are critical to Macpherson’s longstanding oil production operations in the Round Mountain Oil Field in Kern County, California. The API numbers of these wells are set forth in the Regional Board’s Order. (A copy of the Regional Board’s Order is attached as Exhibit 1.) All 29 wells were permitted by the DOGGR for injection, the permit applications for which were copied to the Regional Board. The 29 permitted wells inject produced water into the Walker formation. The Walker formation is an oil-producing formation and was exempted by the federal Environmental Protection Agency (“EPA”) with respect to Class II injection wells under the Safe Drinking Water Act. The Order is based on the authority of the Regional Board pursuant to Water Code section 13267

("Section 13267").

3. The Date The Regional Board Acted.

The date of the Regional Board's Order is May 15, 2015.

4. A Statement Of The Reasons The Action Was Inappropriate Or Improper.

The Regional Board's Order is based on its authority under Section 13267 to require specifically described persons to "furnish...technical or monitoring program reports which the regional board requires" in connection with its investigation of the quality of waters within its region." (Wat. Code, § 13267(b)(1).) That authority is subject to the express mandatory limitation, however, that "the burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports." (Wat. Code, § 13267(b)(1).) The Regional Board has not met this burden.

First, contrary to the specific requirements of Section 13267, the burden, including costs, of the activity mandated by the Order bears no reasonable relationship either to the need for such activity or any benefit to be obtained by it. Any need for or benefit of this activity is greatly outweighed by the burden, including costs, occasioned by compliance with its requirements in any time frame. Macpherson also will suffer an unnecessarily enhanced burden, including costs and business disruption, as a result of the unreasonably abbreviated schedule mandated for compliance with the Order.

Second, the Order is based upon factual assumptions that are demonstrably incorrect. Therefore, there is no need for the demanded activity nor any appreciable benefit to be obtained.

Third, contrary to the statutory requirements, no evidence was provided by the Regional Board to justify the need for the Order.

5. How The Petitioner Is Aggrieved.

As more fully explained in the statement of points and authorities below, the activity mandated by the Order serves no substantial purpose and is of no substantial benefit whatsoever. Since the first of the 29 wells was permitted in 1977, the wells have been used to dispose of water produced in association with oil extracted from the Round Mountain Field into the Walker formation. Records show that over 1.5 billion barrels of produced water have been injected into the Walker formation since the 1960s. Contrary to the assumptions in the Regional Board's Order that there is a potential threat to human health from the injection of produced water into the subject wells, the approval documentation from the DOGGR, which was copied to the

Regional Board, shows that the water injected into the Walker formation is of the same overall quality as the water in the Walker formation. In addition, injection of produced water into the Walker formation has been in compliance and consistent with the authority given to the DOGGR by the federal EPA. The Walker formation in the Round Mountain Field is an exempted formation per the federal EPA, and has been so since 1983. Assertions that some people have made to the effect that the Walker formation was not exempted ignores the contemporaneous evidence that all applicable regulatory agencies and oil operators confirmed the identity of the exempted formations and that the Walker formation was one of the exempted formations.

Furthermore, as the Regional Board is aware from the information furnished in the Aquifer Exemption Study, separate and apart from the fact that the Walker formation is oil-producing, the water in the Walker formation is situated at a depth, which, in combination with the location of the nearest accessible community receiving water service and the associated cost to treat and convey the water, makes recovery for drinking water purposes or other beneficial uses economically impractical.

The Order imposes a significant burden upon the monetary and other resources of Macpherson. As mentioned, the estimated cost to obtain a sample at depth from each of the 29 wells is \$1 Million. In addition, each of the 29 wells currently is operating. Obtaining samples at depth would take each well out of service and would cause the loss of millions of dollars of oil production, as production would need to be reduced because of the reduction in the ability to inject the produced water. Furthermore, no amount of swabbing in the collection procedure would provide an original formation sample or a sample different than what is being injected in light of the extensive injection that has taken place over almost four decades. The Order also exposes Macpherson to substantial legal penalties for any failure to comply. The shutting in and testing of 29 operating injection wells cannot realistically be accomplished by the deadline of August 3, 2015 imposed by the Order. It would take months to accomplish the tasks demanded by the Order. Finally, the Order leaves Macpherson exposed to an open-ended threat of further potentially required, but as yet unspecified, “additional information or action,” and the continuing threat of substantial legal penalties for failure to comply with such further and as yet unspecified requirements.

6. The Action The Petitioner Requests The State Water Board To Take.

Macpherson requests that the Regional Board’s Order be set aside and that the Regional

Board be directed to take no further action with respect to the subject matter of its Order unless and until it provides evidence demonstrating that further action is warranted.

Macpherson further requests both a hearing on this Petition and that the Regional Board's Order be stayed pending a hearing on this Petition or other action by the State Board.

7. A Statement Of Points And Authorities Of Legal Issues Raised In The Petition.

a. The Regional Board's Order Fails To Comply With The Specific Requirements Of Section 13267.

Section 13267 authorizes the Regional Board to conduct an investigation into the quality of waters of the state for certain purposes, and in connection with such an investigation to "require...*any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste* within its region..., [to] furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires." Section 13267 expressly limits the Regional Board's authority in that regard by requiring that "[t]he burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports."

Because the burden upon Macpherson of complying with the Order greatly outweighs any need for the demanded report beyond what is provided in the Aquifer Exemption Study, and any benefit which might be obtained from it, the Order violates the specific mandatory limitation provided in Section 13267.

b. Summary Of Historical Facts Regarding The 29 Wells.

Well locations and completion data for the subject 29 wells has been compiled and is set forth in the table attached as Exhibit 2 hereto. Among other information, the table shows the date of approval for each well and the approximate total of produced water injected into each well. All of the wells were properly permitted. Copies of the well histories are attached collectively as Exhibit 3. Those histories also show that the Regional Board was copied with respect to the permit requests for these wells per the usual procedure. As mentioned above the Walker formation is oil-producing. (Exhibit 4.)

The formation water in the Walker formation has been the subject of injection of produced water for several decades. Records indicated that over 1.5 billion barrels of produced water have been injected into the Walker formation since injection began. (Exhibits 2 and 5.)

While there does not appear to be data as to the quality of the Walker formation water prior to the start of injection, data from oil production wells within the Walker formation show that the concentration of total dissolved solids is 2045 mg/l, that boron is 2.57 mg/l and that total petroleum hydrocarbons are 5,350 mg/l. The produced water that has been injected into the Walker formation is of similar quality with respect to total dissolved solids and boron, and has little in the way of total petroleum hydrocarbons since the oil has been removed. (Exhibit 6.) Thus, the quality of the injected water has been and continues to be consistent with the quality of the formation water.

c. The Walker Formation Is An Exempt Formation In The Round Mountain Field.

When the DOGGR submitted its application to assume primacy for the Class II portion of the Underground Injection Control or UIC program, it provided information about a large number of formations and zones in and around existing oil fields to be considered for aquifer exemptions. Included were formations/zones that produced oil and gas and formations/zones that at that time did not produce oil and/or gas. (Exhibit 7.) After reviewing this information, the EPA exempted formations/zones that produced oil and/or gas, as set forth in the first version of a Memorandum of Agreement (“MOA”) between the EPA and the DOGGR. (Exhibit 8.) The EPA also reviewed the data submitted by the DOGGR and granted some, but less than all, of the aquifer exemptions initially requested by the DOGGR. Among the zones that the EPA did not initially exempt was the Walker formation despite the fact that it had been used for a number of years as a zone for the injection of produced water in the Round Mountain Field. The EPA additionally excluded from exemption a number of other existing water disposal formations/zones in several other oil fields. (*Id.*)

However, there is a second version of the MOA in which the Walker zone, and other zones, were transferred to the list of exempted aquifers. (Exhibit 9.) That change is shown by comparing Attachment #2 in Exhibit 8 with Attachment #2 in Exhibit 9.

That change also is consistent with the contemporaneous record. Correspondence from Macpherson’s files, the files of several other oil companies relative to other oil fields, and information recently produced by the EPA through the Freedom Of Information Act show that the DOGGR appealed to the EPA asking the EPA to reconsider and grant aquifer exemptions for a number of formations/zones that had long been used for water disposal but which the EPA

initially had not exempted. In early 1983, the DOGGR was requesting operators to provide information concerning waste water injection into certain of the Subject Aquifers. Response letters from the operators contain references such as “we herewith provide you with certain materials to assist in the appeal that your office may be making in the matter of the E.P.A. tentative ruling prohibiting injection of oil well water,” and “we appreciate your effort in appealing the proposed ruling.” (Exhibits 10 and 11.) By letters to operators dated April 4 and 5, 1983, the DOGGR ordered the shut in of waste water disposal wells into four of the Subject Aquifers. (Collectively, Exhibit 12.) As of June 16, 1983, however, the DOGGR informed those same operators that the DOGGR had successfully appealed the non-exempt status of the aquifers identified in the letters, and that the prior shut in orders were rescinded. The form letter, which filled in the particular aquifer in blank lines, read:

As a result of an appeal made by the Division of Oil and Gas to the Environmental Protection Agency regarding the non-exempt status of the Walker Zone, Round Mountain field, the previous ruling has been overturned and the currently approved injection intervals in this zone have been exempted for the reinjection of produced oil field water. This appeal could not have been made and won without your help and we wish to extend our appreciation for your efforts.

(Collectively, Exhibit 13.)

After these notices of June 16, 1983, the DOGGR approved at least 25 new injection wells in the Walker zone.

That the Walker formation (as well as other formations) were intended to be exempted – and that the 30-plus-year course of performance of the DOGGR, the SWRCB and the EPA was not some type of mistake or oversight – is definitively demonstrated by the EPA’s letter dated May 17, 1985 to WOGA. (Exhibit 14.) That letter was signed by Frank Covington, Director Water Management Division. As set forth above, Mr. Covington was the one who informed Mr. Mefferd, by letter dated March 11, 1983, that the EPA had approved California’s UIC program. His May 17, 1985 letter states in part:

The staffs of EPA-Region 9 and the California Division of Oil and Gas (CDOG) have been meeting with members of the Western Oil and Gas Association (WOGA), the California Independent Producers Association (CAIPA) and the Independent Oil Producers Agency (IOPA) to determine how wells injecting specific types of oil field fluids will be regulated under the Underground Injection Control program in California. The purpose of this letter is to clarify:

* * * *

3. which formations identified by CDOG in its primacy application were verified as Underground Sources of Drinking Water (USDW) and exempted and which formations were determined not to be USDWs and did not need to be exempted when primacy for CDOG was approved.

(Exhibit 14, p. 1.)

The May 17, 1983 letter went on to state:

There appears to be some confusion about which formations in oil and gas fields are USDWs and which formations in oil and gas fields are not USDWs under the UIC program. When CDOG submitted its application for the Class II portion of the UIC program, it submitted information about a large number of formations in oil fields to be considered for aquifer exemptions. These included formations which produced oil or gas and formations which did not produce any oil or gas. After reviewing the information from CDOG supporting the aquifer exemptions requests, all formations which were USDWs and produced oil or gas were exempted but only some of the formations which did not produce any oil and gas were granted aquifer exemptions. These latter formations were not exempted because the supporting information demonstrated that they were not USDWs as defined by the UIC program. They yielded water which had a Total Dissolved Solids concentration greater than 10,000 milligrams per liter.

Maps showing the lateral extent of any formation which was exempted can be found in California Oil and Gas Fields (Volumes I, II and III) and Appendix B of CDOG's primacy application. They are available for review at the EPA office in San Francisco or at any of the CDOG district offices. A list of those formations, which did not produce any oil and gas and were considered for aquifer exemptions, is provided as Attachment 5. *A list of those formations, which did not produce any oil or gas and which were USDWs and exempted, is provided as Attachment 6.*

(Exhibit 14, pp. 2-3.)

Attachment 6 to the May 17, 1985 letter – sent by one of the people within EPA management who was also involved in the application approval process in 1983 – is the same Attachment #2 that was attached to the second version of the MOA and which listed the Walker formation as exempt. The May 17, 1985 letter, which is shown as copied to “EPA HQ,” necessarily involved the EPA reviewing its then-recent records to clarify for all of the recipients of the letter which aquifers had been exempted during the approval process.

There is no legitimate basis to question whether these aquifer exemptions were in fact issued by the EPA, and, therefore, no basis for the Regional Board to conduct itself as though the

Walker formation is not exempt.

d. Macpherson Has Provided The Pertinent Information In the Aquifer Exemption Study.

As mentioned above, at the request of the DOGGR, Macpherson submitted the Aquifer Exemption Study to the DOGGR in April 2014. The Aquifer Exemption Study contains extensive data regarding, *the water quality of the formation and injectate, hydrocarbon bearing formations, production and injection data, geological structures including containment, and the analysis of the economics to reuse the water produced with the oil*, including information concerning the quality of the water within the Walker formation and the quality of the water that is injected into the Walker formation. Macpherson provided a copy of the Aquifer Exemption Study to the Regional Board with Macpherson's June 1, 2015 work plan. The information in the Aquifer Exemption Study obviates the need for the Regional Board's order.

e. Regional Board Order And Petitioner's Responses.

The Regional Board's Order (Exhibit 1) describes two basic required actions, as follows:

- (1) **"By 3 June 2015** submit a work plan that adequately describes the procedures to collect a representative groundwater sample from the injection zone(s) for each injection well subject to this Order. If a representative sample cannot feasibly be collected from one or more of the injection zones for any of the injection wells subject to this Order within the required timeframe (e.g., due to constraints posed by the design of the injection well), submit a technical report demonstrating that collection of a representative sample from those injection zones is not feasible within the required timeframe, and proposing an alternative sampling procedure and expeditious time schedule for obtaining a representative sample of groundwater from those injection zones. Alternative sampling procedures and time schedules are subject to approval by the Assistant Executive Officer of the Central Valley Water Board."
- (2) **"By 3 August 2015**, submit a technical report that contains all of the following information:
 - a. The analyses of each of the groundwater samples from the injection zone(s) for each injection well subject to this Order, in

accordance with the water quality analysis and reporting requirements contained in Attachment A to this Order.

- b. If fluids have been injected into any of the injection wells subject to this Order, an analysis of a representative sample of those fluids in accordance with the water quality analysis and reporting requirements contained in Attachment A to this Order.
- c. All available historical chemical analyses of the fluids injected into each injection well subject to this Order.
- d. All previously obtained analytical data for groundwater samples collected from any injection zones within one (1) mile of each of the injection wells subject to this Order.
- e. A list and location map of all water supply wells within one mile of each injection well subject to this Order.
- f. Information for each identified water supply well, including the well owner name and contact information; type of well (i.e., domestic, irrigation, industrial, etc.); whether any of the water is used for domestic purposes; status (i.e., active, idle, etc.); well construction, borehole geophysical logs; and all analytical results for any water sample(s) collected from each water supply well. Notify Central Valley Water Board staff within 24 hours upon determination that any water supply well information cannot be obtained from the California Department of Water Resources because it is confidential.
- g. For each injection well subject to this Order, the following information for items A-O shall be submitted in a spreadsheet, labeled with the capital letters indicated. The information for items P-R shall be submitted as attachments:
 - A. The name of the owner and/or operator of the injection well;
 - B. API number for the injection well;
 - C. Injection well name and number;

- D. Name of the field in which the injection well is located;
- E. County in which the injection well is located;
- F. Latitude and Longitude (decimal degrees) of well head location;
- G. Latitude and Longitude Datum, indicate “1” for North American Datum of 1983 or “2” for North American Datum of 1927;
- H. Injection well total depth (feet);
- I. Top injection depth (feet);
- J. Formation/Zone name at top injection depth;
- K. Bottom injection depth (feet);
- L. Formation/Zone name at bottom injection depth;
- M. Date injection started in the well (Day/Month/Year, xx/xx/xxxx);
- N. Total injection volume in barrels by calendar year (to present day);
- O. Attach well construction diagram including all perforation, annular material, and seals;
- P. Attach a description of all sources of fluid injected;
- Q. Attach all data maintained in compliance with California Code of Regulations, title 14, section 1724.10, subdivision (h).
- R. Attach documentation associated with each mechanical integrity test undertaken to comply with California Code of Regulations, title 14, section 1724.10, subdivision (j).”

The Order further describes any failure to comply with these requirements as a misdemeanor subject to “additional enforcement actions,” including a potential fine of \$1,000 for each day in which such a violation continues, and reserves the possibility that, based on the information submitted in compliance with the Order, “additional information or action may be required.”

In response, Macpherson submitted a work plan dated June 1, 2015, which, as mentioned above was submitted with a copy of the Aquifer Exemption Study (digital format). In the work plan, Macpherson proposes to collect samples from the six produced water disposal tanks that are the sole source of the produced water reinjected through the 29 subject wells. The basis for this approach is that because over 1.5 billion barrels of formation fluids have been injected into the Walker formation – including through the 29 wells – the formation fluids will be identical to the produced water stored in the disposal tanks. A copy of Macpherson’s work plan is attached hereto as Exhibit 15. Macpherson has not yet received comments to or approval of its work plan as of the date of this Petition.

f. The Burden For Macpherson Of Complying With The Order Far Outweighs Any Need For The Demanded Report, And Any Resulting Benefit.

In seeking to impose on Macpherson the burden of \$1 Million in costs and millions of dollars in lost oil production in order to respond to the Order, the Regional Board has failed to acknowledge at least four plain facts. First, there is no credible basis for a concern that past injection of water through the 29 wells into the Walker formation has damaged the quality of water in that formation. The wells were used to dispose of produced water from Round Mountain Field in compliance with the guidance and consistent with the authority given to the DOGGR by the federal EPA. All of the documentation shows that the TDS concentration in the injected water is consistent with native formation water. (Exhibit 6.)

Second, separate and apart from the fact that the Walker formation is oil-producing, the water in the Walker formation is situated at a depth, which, in combination with the location of the nearest accessible community receiving water service and the associated cost to treat and convey the water, makes recovery for drinking water purposes or other beneficial uses economically impractical. (Exhibit 16.)

Third, over 1.5 billion barrels of produced water has been injected into the Walker formation since the 1960s. As a practical matter, there is no original formation water that can be sampled from these wells. None of the samples bailed from any of the 29 wells will be any different from the samples of the water being injected. Hence, the most practical approach is to sample the injected water, which can be accomplished at significantly less expense and without disrupting Macpherson’s oil producing operations.

Finally, the documentation further establishes that the Walker formation is exempt under applicable statutes and regulations regarding the injection of produced water. It is entirely improper for the Regional Board to seek a *de facto* rescission of such exemption under Section 13267.

It should be noted that Macpherson has already spent hundreds of thousands of dollars in order to provide the Aquifer Exemption Study specifically addressing the formation water within the Round Mountain Field. In addition to those costs, complying with the Order not only will cost Macpherson an additional \$1 Million in contractor costs and millions in lost production, Macpherson would need to devote considerable time on the part of several of its professional staff members and contract additional support to assemble information, research wells, monitor the sample collection process, shut in production wells, pull equipment from wells and collect samples, and other activities necessary to obtain and provide all the information requested. (Lovley Declaration. ¶6.)

8. A Statement That Copies Of The Petition Have Been Sent To The Regional Water Board And To The Discharger, If Different From The Petitioner.

A copy of this Petition has been sent to the Regional Water Board.

9. An Explanation Of Why The Petitioner Could Not Raise The Issues Raised In The Petition Before The Regional Board.

Macpherson was unable to present the issues raised in this Petition to the Regional Board prior to issuance of the Order because the Regional Board did not provide Macpherson advance notice or other opportunity to do so. Macpherson had no advance notice either of the impending Order or of any other pending inquiry or action concerning the subject matter of the Order. While Macpherson is seeking to discuss the Order with the Regional Board, Macpherson will not be able to resolve its concerns over the Order prior to the expiration of Macpherson's time to appeal. In addition, the Order is open-ended, meaning that there could be later disputes between Macpherson and the Regional Board after Macpherson's time to appeal has expired.

B. REQUEST FOR STAY PENDING HEARING OR OTHER ACTION

1. Facts Re The Burden And Costs Of Providing The Report/Information Demanded By The Regional Board Order Bears No Relationship To The Need For The Report And The Benefits To Be Obtained From The Report

Section 13267(b)(1) further requires that the burden, including costs, of providing the

ordered technical reports “shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports.” As referenced above in these points and authorities, the 29 wells were properly permitted for injection into the Walker formation of the Round Mountain Field, and such formation has been exempted by the federal EPA. Moreover, historical water samples contained in the files indicate that the produced water from the Round Mountain that was injected into the 29 wells has not degraded the Walker formation.

2. Macpherson Would Suffer An Unreasonable Burden And Incur Substantial Costs That Bear No Reasonable Relationship To The Need For Or Benefit To Be Obtained

As mentioned above, the anticipated cost of complying with the Regional Board’s Order is approximately \$1,000,000, and Macpherson will lose millions of dollars of oil production, as the injection wells are necessary for Macpherson to produce oil in the Round Mountain Field. (Lovley Declaration, ¶6.) In addition to those costs, Macpherson would need to devote considerable time on the part of several of its professional staff members and contract additional support to assemble information, research wells, monitor the sample collection process, shut in production wells, pull equipment from wells and collect samples, and other activities necessary to obtain and provide all the information requested. (Id.) Macpherson believes that it is being unnecessarily burdened by having to incur substantial costs to collect and gather data and prepare the technical report/information demanded by the Regional Board’s Order because those costs bear a disproportionate and unreasonable relationship to the need for that technical report/information and the benefits to be obtained from the same. California Water Code section 13267(b)(1) requires the Regional Board to provide a written explanation with regard to the need for the report and identify the “evidence” that supports requiring Macpherson to provide the demanded technical report/information. Despite the fact that the Walker formation has been exempted by the federal EPA, the only statement in the Regional Board’s Order purporting to explain the need for collecting, gathering and presenting the demanded data and information to the Regional Board is the unsupported statement that “these aquifers may be suitable for drinking water supply and other beneficial uses.” No evidence was included to support that assertion, and Macpherson has attached evidence directly to the contrary.

3. There Will Be Substantial Harm To Macpherson If The Stay Is Not Granted And No Substantial Harm To Any Interested Persons And To The Public Interest If The Stay Is Granted.

For the foregoing reasons, substantial harm will be incurred by Petitioner Macpherson if a stay is not granted because Macpherson will be required to incur substantial additional costs. Conversely, no substantial harm will be suffered by any other interested persons or to the public interest if a stay is granted. As mentioned, millions of barrels of produced water have been injected into these wells since they were approved, which produced water has not degraded the Walker formation water. There are substantial questions of fact or law as to whether the burden, including the cost of compliance, bears a reasonable relationship to the need for the data/information and the benefit to be obtained by the same. Therefore, the stay should be granted as requested by Macpherson.

C. CONCLUSION

On the basis of the foregoing, Macpherson respectfully requests the Regional Board's Order be set aside and that the Regional Board be directed to take no further action with respect to the subject matter of its Order unless and until it can demonstrate evidence showing that further action is required.

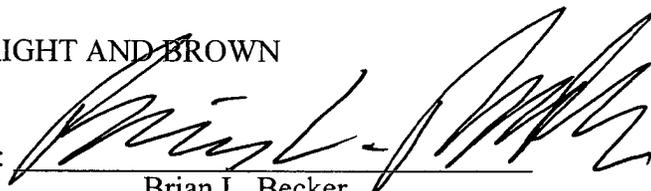
Macpherson further requests that the Regional Board be instructed, should it reasonably determine that further action concerning the subject matter of its Order is required, to direct any further order to an appropriate party in accordance with the provisions of Section 13267 and to provide the evidence upon which such Order is based.

Macpherson further requests both a hearing on this Petition and that the Regional Board's Order be stayed pending a hearing on this Petition or other action by the State Board.

Respectfully submitted,

BRIGHT AND BROWN

By:



Brian L. Becker
Attorneys for Petitioner
Macpherson Oil Company

DATED: June 15, 2015.

**DECLARATION OF TIM LOVLEY IN SUPPORT OF
REQUEST FOR STAY OF REGIONAL BOARD ORDER**

1. I, Tim Lovley, make this Declaration in support of the request of Macpherson Oil Company (“Macpherson”) for a stay of the May 15, 2015 Order of the Central Valley Regional Water Quality Control Board (the “Regional Board”) directing Macpherson to submit information and take other action (the “Order”) pending a hearing, or other action by the State Water Quality Control Board (the “State Board”), upon the foregoing Petition for Review of the Order. All of the statements in this Declaration are known to me of my own personal knowledge to be true and correct.

2. I am the Health, Safety and Environmental Manager for Macpherson, to whom the Order was directed, and which is the Petitioner in this matter. Macpherson’s business offices are located in Santa Monica, California. My office is in the Central Valley facilities of Macpherson, in the Round Mountain Field north of Bakersfield.

3. The Order was received in Macpherson’s facilities in the Round Mountain Field on May 19, 2015 by mail. A copy of the Order is attached to the within Petition as Exhibit 1.

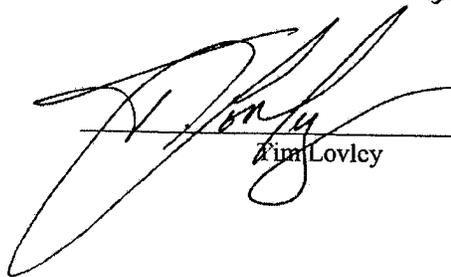
4. The Order addresses 29 wells as formally identified on the Order, located within the Round Mountain Oil Field as designated by the DOGGR. All 29 wells were permitted by the DOGGR for injection into the federal Environmental Protection Agency (“EPA”) exempted Walker formation. The Regional Board’s Order directs Macpherson to obtain and submit certain information and take other actions with respect to each of the wells by August 3, 2015, and is based on the authority of the Regional Board pursuant to Water Code section 13267.

5. As of the date of the Order the 29 wells were in operation and continue to be in operation.

6. The cost to obtain the information required by the Order is estimated to cost over \$1 Million and would require many months to perform. Macpherson would also suffer millions of dollars of lost production, as the required testing would force Macpherson’s injection wells to be shut in while samples are gathered, and Macpherson’s production is dependent on its injection wells being in operation. In addition to those costs, complying with the Order not only will cost Macpherson an additional \$1 Million in contractor costs and millions in lost production, Macpherson would need to devote considerable time on the part of several of its professional

staff members and contract additional support to assemble information, research wells, monitor the sample collection process, shut in production wells, pull equipment from wells and collect samples, and other activities necessary to obtain and provide all the information requested. It should be noted that Macpherson has already spent hundreds of thousands of dollars in order to provide the Aquifer Exemption Study specifically addressing the formation water within the Round Mountain Field.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed by me on June 15, 2015, at Bakersfield, California.



Jim Lovley