California Regional Water Quality Control Board
Santa Ana Region

September 13, 2002

ITEM: 4

SUBJECT: Order No. R8-2002-0071, Amending Cleanup and Abatement Order No. R8-2002-0051

STAFF REPORT:

Background

The matter before the Board is to consider adoption of Order No. R8-2002-0071, amending Cleanup and Abatement Order (CAO) No. R8-2002-0051, for past discharges of waste by Kwikset Corporation and Goodrich Corporation (Goodrich). The waste discharges occurred at the160-acre property bounded approximately by Casa Grande Park Avenue on the north, Locust Avenue on the [illegible]

Successors to West Coast Loading Company

The West Coast Loading Company (WCLC) operated at the 160-acre site that is the subject of CAO No. R8-2002-0051 from 1950 until 1957. Discharges by WCLC (and by Goodrich, who operated at the site from 1957 until 1964) form the basis for the CAO. WCLC no longer exists, but a review of available records indicates that Emhart Manufacturing Corporation (Emhart) and the Black & Decker Corporation (Black & Decker) are successors to WCLC and have assumed its liabilities, and thus should be added to the CAO.

In 1946, Articles of Incorporation were filed for Gate-Way, Inc. In 1949, the Articles were amended, and the name of the company was changed to Kwikset Locks, Inc. In 1952, Articles of Incorporation were filed for West Coast Loading Company, signaling its creation. In 1957, Kwikset Locks, Inc. merged with WCLC, and WCLC ceased to exist as a separate corporate entity. In merging with WCLC, Kwikset Locks, Inc., assumed all the liabilities and obligations of WCLC. On June 30, 1958, a Certificate of Winding Up and Dissolution was signed by the directors of Kwikset Locks, Inc., including Mr. Maurice Jones, Jr. The Certificate stated that the American Hardware Corporation, a Connecticut Corporation, assumed all the liabilities of Kwikset Locks, Inc. Accordingly, the American Hardware Corporation assumed all the liabilities of WCLC as well.

In 1964, the American Hardware Corporation merged with Emhart. In 1989, Black & Decker purchased Emhart, including its Kwikset Division. Accordingly, by virtue of the aforementioned chain of acquisitions and mergers, Emhart and its parent company, Black & Decker, assumed the liabilities of the original Kwikset Locks, Inc. and WCLC, and thus should be included in the CAO.

Requirement to Provide Groundwater Treatment or an Alternate Water Supply

A total of 18 wells owned by the Fontana Water Company, West San Bernardino County Water District, and the Cities of Colton and Rialto have been affected by perchlorate, and exceed the California Department of Health Services (DHS) Action Level (AL) of four parts per billion (ppb). Groundwater treatment or an alternate water supply for the local water purveyors is necessary to abate the effects of the discharge of perchlorate waste on the beneficial uses of the Rialto, Colton, Chino I and Chino II Groundwater Subbasins, and to assure the customers of these water purveyors are provided with an adequate water supply. The amended language is proposed to ensure that the affected water purveyors are provided with the necessary water supply. This proposed amendment is similar to requirements imposed by Board staff in other cases.

Other Changes

The other amendments proposed by Order No. R8-2002-0071 are to add findings to support the changes described above, and to update existing findings to more

accurately reflect the current extent of perchlorate pollution and the number of wells that have been affected.

RECOMMENDATION:

Adopt Order No. R8-2002-0071 as presented.

California Regional Water Quality Control Board
Santa Ana Region

Order No. R8-2002-0071
Amending Cleanup and Abatement Order No. R8-2002-0051
For
Goodrich Corporation
Kwikset Corporation
Emhart Teknologies, Inc.
And
Black and Decker Corporation

160-Acre Property Bounded Approximately by Casa Grande Park Avenue on the North, Locust Avenue on the East, the Extension of Alder Avenue on the West, and the Extension of Summit Avenue on the South,
City of Rialto, San Bernardino County

TENTATIVE

The California Regional Water Quality Control Board, Santa Ana Region (hereinafter Regional Board), finds that:

1. Cleanup and Abatement Order (CAO) No. R8-2002-0051 was issued to the Goodrich Corporation and the Kwikset Corporation (the former West Coast Loading Company) on June 6, 2002 by the Executive Officer of the Regional Board.

2. The organizational history of the West Coast Loading Company (WCLC) indicates that the Black and Decker Corporation (Black and Decker) and Emhart Manufacturing Corporation (now Emhart Teknologies, Inc. – hereinafter Emhart) are responsible parties for the liabilities of WCLC, and thus should be included in the CAO. The four entities, Goodrich Corporation, Kwikset Corporation, Emhart Teknologies, Inc. and Black and Decker Corporation are referred to collectively herein as "Dischargers."

3. In 1946, the Articles of Incorporation were filed for Gate-Way, Inc. In 1949, the Articles were amended, and the name of the company was changed to Kwikset Locks, Inc.

4. In 1952, Articles of Incorporation were filed for West Coast Loading Company, signaling its creation.

5. In 1958, Articles of Incorporation were filed for Kwikset Locks Corporation by its directors, including Mr. Maurice Jones, Jr.

6. In 1957, Kwikset Locks, Inc. merged with WCLC, and WCLC ceased to exist as a separate corporate entity. In merging with WCLC, Kwikset Locks, Inc., assumed all the liabilities and obligations of WCLC.

7. On June 30, 1958, a Certificate of Winding Up and Dissolution was signed by the directors of Kwikset Locks, Inc, including Mr. Maurice Jones, Jr.. The Certificate stated that the American Hardware Corporation, a Connecticut Corporation, assumed all the liabilities of Kwikset Locks, Inc. Accordingly, the American Hardware Corporation assumed all the liabilities of WCLC as well.

8. In 1964, the American Hardware Corporation merged with Emhart. In 1989, Black and Decker purchased Emhart, including its Kwikset Division. Accordingly, by virtue of the aforementioned chain of acquisitions and mergers, Emhart and its parent company, Black and Decker, assumed the liabilities of the original Kwikset Locks, Inc. and WCLC, and thus should be included in the CAO.

9. In addition to effects on the Rialto Groundwater Subbasin, as described in CAO No. R8-2002-0051, the Colton, Chino I, and Chino II Groundwater Subbasins have also been affected by discharges of perchlorate salts from the subject 160-acre site. The amended language is proposed to include the names of all of the groundwater subbasins and water purveyors that have been affected by discharges of perchlorate at the Rialto site.

10. A water supply plan for the local water purveyors is necessary to abate the effects of the discharge of perchlorate waste on the beneficial uses of the Rialto, Colton, Chino I and Chino II Groundwater Subbasins, and to assure the customers of the Fontana Water Company, West San Bernardino County Water District, and the Cities of Colton and Rialto are provided with water that does not exceed the California Department of Health Services (DHS) Action Level (AL) of four parts per billion (ppb) for perchlorate. The amended language is proposed to ensure that the affected water purveyors are provided with the necessary water supply.

IT IS HEREBY ORDERED THAT Cleanup and Abatement Order No. R8-2002-0051 be amended as follows:

(Language to be added is underscored)
(Language to be deleted is lined out)

1. Change the title to read:

   "Cleanup and Abatement Order No. R8-2002-0051 as Amended by Order No. R8-2002-0071 for Goodrich Corporation, Kwikset Corporation ~~(Former West Coast Loading Company)~~, Black and Decker Corporation, and Emhart Teknologies, Inc."

2. Change Finding 1 as follows:

   "From 1950 to 1957, the West Coast Loading Company (WCLC), a division of the former Kwikset Locks Corporation ~~(now Kwikset Corporation – hereinafter Kwikset)~~, owned and occupied the 160 acres of property consisting of the southwest quarter of Section 21, Township 1 North, Range 5 West, San Bernardino Base and Meridian in the County of San Bernardino, State of California."

3. Change Finding 8 as follows:

   "On January 18, 2002, DHS lowered the AL to four ppb. Since then, the West San Bernardino County Water District, the Fontana Water Company, and the Cities of Rialto and Colton have shut down ~~four~~ at least 14 municipal water supply wells that exceeded the new AL of 4 four ppb ~~but did not exceed the previous AL of 18 ppb~~."

4. Add a new Finding 9 (as follows), and renumber the subsequent findings:

   "Municipal water supply wells in the Rialto, Colton, Chino I and Chino II Groundwater Subbasins have been, or are likely to be, affected by the perchlorate pollution."

5. Change Finding 10 as follows:

   "The direction of groundwater flow in the area is known to be towards the southeast, which is from the subject site to the location of the West San Bernardino County Water District, Rialto and Colton wells. It is also likely that some component of the groundwater may flow toward Fontana Water Company

wells, which are located to the southwest. Taken in conjunction with the facts that the well with the highest concentration of perchlorate is the well closest to the site, and the concentration of perchlorate in the remaining wells decreases with increasing distance of each well from the site, and considering the historical activities that took place at the site ~~and the absence of any other nearby sites where perchlorate may have been discharged~~, it is evident that the site is a source of the perchlorate that is in the groundwater."

6. Change Finding 11 to read:

"Perchlorate was first analyzed for, and found, in the City of Colton's wells in 1997. This was 47 years after ~~Kwikset~~WCLC began operations at the site, and 40 years after Goodrich began operations at the site. The estimated groundwater flow velocity in this area of the Rialto Subbasin is between one and three feet per day. At an average flow velocity of two feet per day, it would take approximately 43 years for groundwater to travel downgradient from the site to the City of Colton's wells that contain perchlorate, a distance of six miles. Therefore, perchlorate has likely been in the groundwater for about 43 years. As a result, it is evident that ~~the~~ perchlorate that has ~~travelled~~ traveled about six miles downgradient from the site ~~was~~ would have been discharged at the site during the time that ~~Kwikset~~WCLC and Goodrich occupied the site."

7. Change Finding 12 to read:

"The beneficial uses of the Rialto, Colton, Chino I and Chino II Groundwater Subbasins include:

A. Municipal and domestic supply,
B. Agricultural supply,
C. Industrial service supply, and
D. Industrial process supply."

8. Change Finding 13 as follows:

"Kwikset Corporation, ~~and~~ Goodrich, Emhart, and Black and Decker have caused or permitted, are causing or permitting, or threaten to cause or permit waste, i.e., perchlorate, to be discharged to waters of the state, specifically the Rialto, Colton, Chino I and Chino II Groundwater Subbasins, and have created, or threaten to create a condition of pollution or nuisance."

9. Replace Finding 15 with the following:

"At this time, it is appropriate to order Kwikset Corporation, Goodrich, Emhart, and Black and Decker to abate the effects of the discharge of perchlorate. Furthermore, a water supply plan for the local water purveyors is necessary to abate the effects of the waste on the beneficial uses of the Rialto, Colton, Chino I and Chino II Groundwater Subbasins, and to assure that the customers of the Fontana Water Company, West San Bernardino County Water District, and the Cities of Colton and Rialto are provided with water that does not exceed the DHS AL for perchlorate."

10. Change the sentence which begins "IT IS HEREBY ORDERED...." to read as follows:

"IT IS HEREBY ORDERED THAT, pursuant to Section 13304, Article 1, Chapter 5, Division 7, of the California Water Code, Goodrich, ~~and~~ Kwikset Corporation, Emhart, and Black and Decker shall investigate and clean up the perchlorate contamination and pollution as follows:"

11. Change Order Item 3. to read:

"Sixty days after completing implementation of the approved proposal, submit a detailed remedial action plan, and a six-month time schedule for implementing the remedial action. The remedial action plan and schedule will be subject to ~~the~~ approval by the Executive Officer."

12. Delete all text after Order Item 4., and replace with the following text:

"IT IS HEREBY FURTHER ORDERED THAT, pursuant to Section 13304, Article 1, Chapter 5, Division 7, of the California Water Code, Goodrich Kwikset, Emhart, and Black and Decker shall abate the effects of perchlorate discharges as follows:

1. By September 20, 2002, submit a proposed plan and time schedule to assure that drinking water provided to customers of the Fontana Water Company, West San Bernardino County Water District, and the Cities of Rialto and Colton, does not exceed the DHS AL for perchlorate. The plan and schedule are subject to approval by the Executive Officer. Groundwater treatment, or an equivalent supply of replacement water (both immediate and long-term), must be provided to replace the water deemed unusable as a result of the perchlorate discharges described

herein, and must be suitable to the Fontana Water Company, West San Bernardino County Water District, and the Cities of Rialto and Colton.

2. Within 15 days of approval by the Executive Officer, implement the plan in 5., above."

I, Gerard J. Thibeault, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, Santa Ana Region, on September 13, 2002.

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Gerard J. Thibeault
Executive Officer