



Linda S. Adams
Secretary for
Environmental Protection

State Water Resources Control Board



Arnold Schwarzenegger
Governor

Executive Office

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March 8, 2007

VIA U.S. MAIL AND EMAIL

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Dear Messrs. Diaz, Duchesneau, Hunsucker, León, Sommer, and Wyatt:

INITIAL RULINGS ISSUED IN RESPONSE TO PRE-HEARING MOTIONS FILED IN THE
MATTER OF PERCHLORATE CONAMINATION AT A 160-SITE IN THE RIALTO AREA
(SWRCB/OCC FILE A-1824)

The State Water Resources Control Board (State Water Board) received numerous pre-hearing motions from the designated parties in accordance with the procedures set forth in the Notice of Public Hearing In the Matter of Perchlorate Contamination at a 160-acre Site in the Rialto Area (SWRCB/OCC FILE A-1824) dated February 23, 2007. All motions will be posted on the State Water Board's web page (<http://www.waterboards.ca.gov/wqpetitions/a1824motions.html>).

As the Hearing Officer for the evidentiary hearing on this matter, I am issuing rulings on the following motions at this time. These rulings are being issued in the interest of efficiency for the parties and to allow for orderly discovery and progression to a hearing. Further rulings will be forthcoming. All other rulings on the timely submitted motions will be made prior to the evidentiary hearing.

California Environmental Protection Agency

1. Several motions were filed objecting to the hearing schedule set forth in the Notice of Public Hearing issued February 23, 2007. A motion by the Center for Community Action and Environmental Justice (CCA EJ) and Environment California objected to the hearing schedule and requested the hearing be scheduled for the week of April 16, 2007. A motion was filed by the Santa Ana Regional Water Quality Control Board Advocacy Team (Advocacy Team) moving that the submittal and hearing dates be continued in order to accommodate reasonable discovery. In addition, a motion was filed by Emhart Industries, Kwikset Locks, Inc. Kwikset Corporation and Black & Decker (US) Inc. (Emhart) and joined by Goodrich Corporation and Pyro Spectaculars, Inc. to move the State Water Board to vacate the pre-hearing submission schedule, the hearing schedule and time limitations placed on each party during the hearing set forth in the Notice of Public Hearing issued on February 23, 2007.

The motions are granted in part and denied in part. The pre-hearing submission schedule and the hearing schedule are vacated. A revised pre-hearing submission and hearing schedule is issued at the conclusion of this letter, and included in the accompanying revised draft hearing notice. The time limitations imposed on each of the parties during the hearing is extended to five hours for each party to make opening statements, present evidence, testimony, legal and policy arguments, and conduct cross-examination. In addition, the date for submittal of policy statements by interested persons has been extended. As stated in both the original and revised Notice of Public Hearing, the scope of the hearing and therefore discovery for the hearing is limited to 160-acre Rialto site.

2. The motion to vacate filed by Emhart and joined by Goodrich Corporation and Pyro Spectaculars, Inc. also moved that the State Water Board order the parties to meet and confer to attempt to agree upon a date certain upon which all pre-hearing discovery and pre hearing motions shall be completed.

The motion is denied. However, nothing precludes the parties from meeting to develop and submit a unanimously agreed upon pre-hearing and hearing schedule to the State Water Board for consideration.

3. A motion was filed by Pyro Spectaculars, Inc. and joined by Goodrich Corporation and Emhart to move that the City of Rialto and CCA EJ and Environment California not be allowed to participate as parties and that their participation should be only as interested persons.

This motion is denied.

4. A motion was filed by Goodrich Corporation and joined by Emhart and Pyro Spectaculars, Inc. to move the Hearing Officer to strike the simultaneous exchange of all parties' evidence on March 13, 2007 and request that the Advocacy Team, City of Rialto, and the CCA EJ and Environment California present their evidence in writing at least 30 days before the alleged dischargers are required to respond.

The motion is granted in part and denied in part. The requirement for simultaneous exchange of all parties' evidence will be stricken from the revised Notice of Public Hearing.

The Advocacy Team will submit its evidence in advance of the other parties in accordance with the revised pre-hearing submission and hearing schedule.

5. A motion was filed by Goodrich Corporation and joined by Emhart and Pyro Spectaculars, Inc. to move that the hearing and proceedings set forth in the February 23, 2007 Notice of Public Hearing be held pursuant to the provisions for a formal hearing under Government Code Chapter 5 sections 11500 et. seq.

The motion is denied. The hearing will be conducted in accordance with the State Water Board's regulations governing adjudicative proceedings and incorporated provisions of Government Code Chapter 4.5 of the Administrative Procedures Act.

Revised Pre-hearing Submission Schedule

Tuesday March 27, 2007 at 5:00 p.m.: Advocacy Team's documents, testimony, and exhibitions are due.

Thursday April 12, 2007 at 5:00 p.m.: All Parties' (Except Advocacy Team) documents, testimony, and exhibitions are due.

Thursday April 26, 2007 at 5:00 p.m.: All policy statements submitted by interested persons and all rebuttals submitted by parties are due.

Wednesday May 2, 2007 at 5:00 p.m.: All PowerPoint and other computer displays to be used by parties during the hearing are due.

Revised Hearing Schedule

Tuesday, May 8, 2007: 10:00 a.m. – 9:00 p.m. (with two 60-minute breaks)

Wednesday, May 9, 2007: 10:00 a.m. – 9:00 p.m. (with two 60-minute breaks)

Thursday, May 10, 2007 9:00 a.m. – 5:00 p.m. (with one 60-minute break)

Tuesday May 15, 2007: 10:00 a.m. – 9:00 p.m. (with two 60-minute breaks)

Wednesday May 16, 2007: 10:00 a.m. – 9:00 p.m. (with two 60-minute breaks)

Thursday May 17, 2007: 9:00 a.m. – 5:00 p.m. (with one 60-minute break)

For convenience a Revised Notice of Public Hearing dated March 8, 2007 accompanies this order. The Revised Notice of Public Hearing should be consulted for all further submissions.

In addition, as Hearing Officer, I reserve the right to make further revisions to these rulings in the future. If you have any questions on the above matter please direct them to Karen O'Haire, Senior Staff Counsel, in the Office of the Chief Counsel at kohaire@waterboards.ca.gov.

Sincerely,



Tam M. Doduc
Board Chair

Enclosure

cc: See next page

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