



City of San Juan Capistrano Utilities Department  
 32450 Paseo Adelanto  
 San Juan Capistrano CA, 92675

Project: NA  
 Project Number: MTBE-Production Wells  
 Project Manager: West Curry

Reported:  
 07/27/09 14:17

**MTBE by EPA Method 8260B (SIM - Selective Ion Mode)**

**Sierra Analytical Labs, Inc.**

Analyte	Result	Reporting Limit	Units	Dilution	Batch	Prepared	Analyzed	Method	Notes
<b>Kinoshita Well (PSCode 3010120-001) (0907333-01) Water</b> <b>Sampled: 07/21/09 09:10</b> <b>Received: 07/21/09 14:25</b>									
Methyl tert-butyl ether	ND	0.50	µg/L	1	B9G2701	07/24/09	07/27/09 07:51	EPA 8260B	
Surrogate: Dibromofluoromethane		102 %	86-118		"	"	"	"	
Surrogate: Toluene-d8		102 %	88-110		"	"	"	"	
Surrogate: 4-Bromofluorobenzene		96.0 %	86-115		"	"	"	"	
<b>SJBA #2 (PSCode 3010120-002) (0907333-02) Water</b> <b>Sampled: 07/21/09 08:50</b> <b>Received: 07/21/09 14:25</b>									
Methyl tert-butyl ether	ND	0.50	µg/L	1	B9G2701	07/24/09	07/27/09 07:51	EPA 8260B	
Surrogate: Dibromofluoromethane		117 %	86-118		"	"	"	"	
Surrogate: Toluene-d8		102 %	88-110		"	"	"	"	
Surrogate: 4-Bromofluorobenzene		95.8 %	86-115		"	"	"	"	
<b>SJBA #4 (PSCode 3010120-003) (0907333-03) Water</b> <b>Sampled: 07/21/09 08:40</b> <b>Received: 07/21/09 14:25</b>									
Methyl tert-butyl ether	ND	0.50	µg/L	1	B9G2701	07/24/09	07/27/09 07:51	EPA 8260B	
Surrogate: Dibromofluoromethane		104 %	86-118		"	"	"	"	
Surrogate: Toluene-d8		101 %	88-110		"	"	"	"	
Surrogate: 4-Bromofluorobenzene		95.8 %	86-115		"	"	"	"	
<b>CVWD #1 (PSCode 3010120-004) (0907333-04) Water</b> <b>Sampled: 07/21/09 09:00</b> <b>Received: 07/21/09 14:25</b>									
Methyl tert-butyl ether	ND	0.50	µg/L	1	B9G2701	07/24/09	07/27/09 07:51	EPA 8260B	
Surrogate: Dibromofluoromethane		103 %	86-118		"	"	"	"	
Surrogate: Toluene-d8		102 %	88-110		"	"	"	"	
Surrogate: 4-Bromofluorobenzene		95.2 %	86-115		"	"	"	"	
<b>Dance Hall (PSCode 3010120-005) (0907333-05) Water</b> <b>Sampled: 07/21/09 09:30</b> <b>Received: 07/21/09 14:25</b>									
Methyl tert-butyl ether	1.3	0.50	µg/L	1	B9G2701	07/24/09	07/27/09 07:51	EPA 8260B	
Surrogate: Dibromofluoromethane		104 %	86-118		"	"	"	"	
Surrogate: Toluene-d8		101 %	88-110		"	"	"	"	
Surrogate: 4-Bromofluorobenzene		95.0 %	86-115		"	"	"	"	

The results in this report apply to the samples analyzed in accordance with the chain of custody document. This analytical report must be reproduced in its entirety.





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January 6, 2009

Mr. John O'Donnell  
Utilities Director  
City of San Juan Capistrano  
32400 Paseo Adelanto  
San Juan Capistrano, CA 92675

**Subject: Response to the City of San Juan Capistrano's November 24, 2008 Letter**

Dear Mr. O'Donnell:

Chevron has reviewed the letter that you sent me dated November 24, 2008 and has the following responses regarding the MtBE plume allegedly originating from Chevron's Station 9-3417, Chevron's plans for a Dance Hall wellhead plume treatment system, and the groundwater fate and transport modeling associated therewith. This letter is intended to respond to your questions and comments, as well as to correct some of the apparent misunderstandings and inaccuracies in your November 24, 2008 letter. The questions and statements from your letter are reprinted in bold below, and Chevron's responses follow in italics.

**RESPONSE TO THE CITY'S NOVEMBER 24, 2008 LETTER**

- 1. GeoSyntec/Chevron stated during the model presentation that if the 3 residential wells pump at 2250 gpm, the Dance Hall well pumps at 850 gpm, Tirador well pumps at 0 gpm and Kinoshita pumps at 400 gpm, then the Dance Hall well will not provide complete capture of the MtBE plume.**

**Will the MtBE's [sic] migrate to other wells in the basin or simply flow by the Dancehall [sic] well and further downstream towards our basin area for potential near future wells as being studied by Psomas?**

**It is clear that GeoSyntec/Chevron must make several model runs and create a matrix showing at what flowrates [sic] from what wells and what combinations of wells are being proposed by Chevron to be run. Chevron is being given the City wells and near future City wells well data with their maximum pumped or assumed**

**capacities. It is Chevron's responsibility to perform the appropriate number of aquifer model runs under various well combinations at climatic conditions at various times of the year, including worse case scenarios, and create a matrix of allowable flow combinations of the various City wells, current and near future. Otherwise the City will not know which wells to operate, and at what flowrates [sic], in order to prevent the MTBE flow by of the plume or the MtBE contamination of other wells.**

*Chevron stated that the most effective capture would be achieved when the pumping from the three residential wells (CVWD1, SJBA2, SJBA4) was balanced with the pumping from the Dance Hall well. Capture of the plume can still be achieved even if the balance is modified by increased residential well pumping, as long as the Dance Hall well is pumped at a rate of at least 850 gpm, although the degree of certainty associated with the amount of plume capture is less.*

*The potential for MtBE to be detected in the GWRP wells downgradient of the Dance Hall well is increased significantly by not continuously pumping the Dance Hall well at 850 gpm while pumping from the residential wells, as the City has been doing since mid-September 2008. Chevron made the City aware that this combination was not advisable at least as far back as March 2008, when the IRAP was published.*

*Chevron has completed an additional modeling scenario using the City's preferred well combinations and pumping rates. The scenario includes proposed new wells Rosan Ranch #2, WS#5 (projected inside the model domain), and South Cooks for a total combined pumping from 9 GWRP wells of 10 MGD. The results show no material change in the fate and transport of the MtBE plume as compared to other scenarios presented to the City previously (October 14 and November 18, 2008) and noted above. However, the model prepared for Chevron is intended specifically to evaluate fate and transport of MtBE between the Station 9-3417 and the Dance Hall well. The Chevron model is not an appropriate tool for modeling the overall aquifer capacity and basin yield, nor is it intended to be.*

*Modeling the infinite combinations of potential future pumping wells and rates suggested by the City is not only an extremely onerous task, but is unnecessary. As noted above, continuous pumping of the Dance Hall well at a rate of at least 850 gpm is sufficient to capture the MtBE plume. The most effective capture is expected to be achieved when the Dance Hall well is pumped at 850 gpm and the pumping from the three residential wells (CVWD1, SJBA2, SJBA4) is balanced with the pumping from the Dance Hall well and does not interfere with the Dance Hall well capture zone. Capture of the plume can be achieved under many pumping scenarios as long as the Dance Hall well is pumped at a rate of at least 850 gpm. The degree of certainty associated with the amount of capture decreases when pumping from the residential wells competes (i.e., interferes) with the pumping at the Dance Hall well.*

- 2. Provide two electronic copies of the Groundwater Vista input and output files for each individual model run, including initial head file. Include a descriptive summary of the conditions the model evaluates, specifically including the time frame, rainfall pattern (wet-average-dry) at the various GWRP pumping scenarios.**

*As Chevron has previously noted, a comprehensive Preliminary Modeling Report for the Interim Remedial Action Plan Wellhead Treatment System (Preliminary IRAP Modeling Report) was provided to the City and its consultant Psomas on November 18, 2008. Sufficient information and documentation as to model inputs and outputs (including rainfall patterns and pumping schedules), as is standard in the industry, are provided in the report to allow independent verification of the modeling. Furthermore, the Groundwater Vistas input and output files are protected attorney work product. In light of threatened litigation by the City, Chevron is not willing to waive this privilege.*

- 3. Produce a model run which confirms your statement that "under certain conditions the plume will bypass the Dance Hall Well under both wet and dry conditions." The model should include all existing City wells as well as potential wells that the City expects to install/operate during the period when the Dance Hall well treatment system is in operation.**

*Chevron did not make the statement referenced above. Please see the response to Question #1 for information about capture of the MtBE plume under various pumping conditions.*

- 4. Explain how the MtBE in Layer 1 and 2 will not enter Layer 3 following the removal of MtBE from Layer 3? How would this affect the duration of the IRAP or CAP?**

*In the vicinity of Station 9-3417, groundwater and MtBE migration rates in model Layers 1 and 2 are very slow due to the occurrence of low-permeability geologic materials. The low-permeability materials limit groundwater and MtBE migration into Layer 3. In contrast, groundwater and MtBE migration rates in Layer 3 (i.e., the main groundwater production zone) are significantly higher. Thus, pumping the Dance Hall well is expected to remove MtBE from Layer 3 rapidly. Based on this and other transport factors, the duration of the Dance Hall wellhead plume treatment system is expected to be approximately less than one year. Chevron will work with OCLOP on determining appropriate timing and shutdown criteria for the remediation system.*

- 5. What is the expected duration of the IRAP and CAP treatment. Provide support to back up your statements.**

*The duration is expected to be approximately less than one year, as noted in the response to Question #4 above and as demonstrated during the modeling presentation. The results of the*

*modeling predict that within that window of time, aquifer concentrations at the influent to the Dance Hall well will be below standard commercial laboratory detection limits for MtBE and are expected to meet OCLOP closure criteria. Chevron will work with OCLOP on determining appropriate timing and shutdown criteria for the remediation system.*

- 6. GeoSyntec/Chevron stated that a residual amount of MtBE will remain in the well(s) after the proposed Chevron treatment of the Dance Hall well is complete in 2012. How is this possible if the City has stated that no concentrations of MtBE are acceptable?**

*Chevron did not make the statement referenced above. Please see the response to Question #5 above as to duration of the treatment. Also, please see Chevron's confidential December 22, 2008 letter to Mr. Hogin regarding acceptable levels of MtBE in the well(s). As noted in the response to Question #4 above, Chevron will work with OCLOP on determining appropriate timing and shutdown criteria for the remediation system.*

- 7. GeoSyntec/Chevron stated that if the upper two Layers (1&2) of the basin are kept dry, then the MtBE will not be treated, but will "bleed out" over time. How will Chevron assure that any concentration of the "bleed out" MtBE will not enter the City production wells? Would not this situation require an in-situ treatment to guard against and [sic] unanticipated migration in the future?**

*MtBE in model Layers 1 and 2 may in time migrate into groundwater in model Layer 3. The Dance Hall wellhead plume treatment system, including its operation and expected duration, has been designed with this consideration. The modeling results indicate that under these circumstances, the Dance Hall well, when operated at 850 gpm essentially continuously, will be capable of capturing the MtBE plume.*

*Chevron will present in its Corrective Action Plan (CAP), which is due to OCLOP on February 17, 2009, possible options for source area treatment, potentially including treatment of mass within model Layers 1 and 2.*

- 8. GeoSyntec/Chevron stated that Layer 1 and 2 will not be addressed by Chevron after 3-years. How does this statement address the potential for MtBE to enter City production wells?**

*The question stated above is an incorrect statement of the information presented at the October 14 and November 18, 2008 modeling presentations to the City and its consultants. MtBE mass will be removed from model Layers 1 and 2 during the operation of the Dance Hall wellhead plume treatment system. Please see the response to Question #7 above.*

- 9. If the County is expecting the CAP by February 17, 2009, then when will the City expect a draft CAP document to be available for review?**

*Chevron will be submitting a CAP to OCLOP, the regulatory agency with jurisdiction for the environmental matters associated with the MtBE plume remediation, on or before February 17, 2009. As Chevron has done with other reports submitted to OCLOP, including the IRAP, it will send the City a copy of the CAP at the same time it is submitted to OCLOP.*

- 10. The City's 1938 aerial photos clearly show Horno Creek, which needs to be incorporated into the aquifer model for accuracy and potential effect on the Tirador well. The Horno creek is well within the sphere of the plume and needs to be included in the model for potential contamination of the Tirador well.**

*Horno Creek is a small ephemeral stream contributing minor amounts of stream flow compared to the much larger perennial Trabuco Creek and higher-volume ephemeral San Juan Creek. Most of Horno Creek is outside of the IRAP model domain. Furthermore, there are no USGS gauging data for Horno Creek, meaning there are no reliable data to use to reproduce potential Horno Creek recharge in the model. Furthermore, the City's and SJBA's own consultant's draft basin model does not include influence from Horno Creek. The minor recharge contribution estimated from Horno Creek into San Juan Creek is expected to have minimal influence on the key model objective (i.e., Dance Hall well capture zone simulations and MtBE capture) based on field observations of the limited and intermittent stream flow.*

*The City staff has also indicated that it may have concerns related to undocumented paleo channels potentially associated with Horno Creek. Identifying and mapping potential paleo channels is beyond the scope of Chevron's MtBE fate and transport model.*

- 11. Explain how the output curves for the residual MtBE would dissipate past the Year 2012. GeoSyntec statements and charts indicate that MtBE will be present in the Dance Hall well for many years past the Year 2012. How many years and at what concentration per year?**

*The modeling suggests that the MtBE plume will be remediated using the Dance Hall wellhead plume treatment system to concentrations below standard laboratory detection limits at the influent to the Dance Hall well within approximately one year of operation, and Chevron expects that it can meet OCLOP's closure requirements at that time. Further concentration versus time curves for longer time periods are unnecessary.*

- 12. Explain the assumptions used in determining the two separate curves used for the MtBE removal (concentration vs. time) charts.**

*We assume that the comment references the concentration versus time plot presented in the October 14 and November 18, 2008 presentations with data series labeled "MtBE concentration at Dance Hall" and "2x estimate." As explained in the presentation, the first data series represents the MtBE concentration in the Dance Hall well cell (Layer 3) predicted by the numerical model under the scenario described in Section 6.3 of the Preliminary IRAP Modeling Report. The "2x estimate" is the same scenario run using twice the amount of initial mass. The assumptions for the initial scenario are detailed in the Report.*

- 13. Explain the GeoSyntec statement that the GAC is expected to treat the MtBE in Layer 3 to below 1.0 ppb by year 2012, and that Chevron is not concerned over the MtBE residuals in Layer 1 & 2; which will continue to migrate and enter City wells thereafter in "non detectable amounts." The City made it clear that they do not want any amount of MTBE in the groundwater.**

*The above statement is not accurate; Chevron did not make the statement attributed above. Please see the responses to Questions #6, 7, 8, and 11 above.*

- 14. Explain Mr. Fraim's statement during a previous meeting that the MtBE levels in the Dance Hall well will jump to over 4ppb upon pumping along with the GAC treatment. This statement is not reflected on the GeoSyntec graphs. Were there other Aquifer models run that the City is not aware of is [sic] not privy to review? The City would like to have those runs, input and output data.**

*The above question is a mis-statement of Mr. Fraim's comment. Mr. Fraim stated – in a hypothetical manner – that if the mass of the plume increased by 4 times, the MtBE concentration in the influent groundwater to the Dance Hall well could increase by 4 times, to as much as 4 µg/L. This is simply a hypothetical and is not based on available data. There are no additional modeling runs for this scenario; it is merely a linear extrapolation of the results presented in the IRAP Modeling Report.*

- 15. GeoSyntec's initial model run had incorrect input flow amounts as they only used plant output amounts of 1750 and 3500 gpm. This model run needs to have the flows increased as follows to produce 2.51 mgd product water the GWRP needs 2,231 gpm or [sic] raw water, 5.14 mgd product /4,461 gpm; 6.20 mgd product 5,382 gpm; 8.0 mgd product/6,944 gpm, gpm. Note that the GWRP is expected to operate with 9 wells, adding the eastern wells - South Cooks well, and Well Site #5, and the Rosan Ranch well to the south which should be included in the modeling area. The GWRP plans to operate 355 days per year with 1/2 production occurring less than 1 month per year. Provide an AF/yr summary of raw water extracted and specify from which wells.**

*The additional wells and higher pumping rates have been included in the revised modeling. Please see the response to Question #1 above.*

**16. The MOU indicates that the City must run the GWRP/Dance Hall well with minimal downtime to assure MtBE removal in Layer 3. What is your contingency plan if this cannot be accomplished?**

*It is Chevron's expectation that if the City enters into an agreement with Chevron, the City will do its utmost to achieve minimal downtime of the Dance Hall well and the entire GWRP so that the remediation can be accomplished. The forthcoming CAP will include alternatives, in lieu of using the Dance Hall well as a remediation well, which can be implemented should the City not be able to operate the Dance Hall well in accordance with the proposed agreement.*

**17. The GeoSyntec model run assumes that if the Dance Hall well is down for more than 25 days, MtBE will migrate down gradient of the well past the point that the Dance Hall well can draw it back (stagnation point). How will Chevron guarantee that the well or the treatment plant will not be down for more than 25 consecutive days? What contingencies are being provided? The City will need to be indemnified by Chevron for those conditions.**

*Granular activated carbon (GAC) is a widely-known, time-tested, simple treatment process that should experience little to no downtime outside of routine maintenance. Chevron will work diligently to see that the wellhead treatment system operates continuously as intended. Chevron expects that the City will do its part to ensure that there is minimal downtime of the Dance Hall well and the entire GWRP so that the remediation can be accomplished. See the response to Questions #1 and #16 above for more details.*

**18. What is the impact of the Dance Hall well being down for approximately nine months? What investigations have been performed to assure that the stagnation point has not been passed with MTBE?**

*The City could mitigate this issue by pumping the Dance Hall well, as the previously-measured influent concentrations are below the California Department of Public Health's (DPH's) Detection Limit for the Purposes of Reporting (DLR) of 3 µg/L. Chevron also understands that the City is monitoring the influent to CVWD1, SJBA2, and SJBA4 for MtBE. Chevron repeats its December 12, 2008 request for copies of those analytical results, which it has not yet received.*

*With regard to investigations, Chevron submitted to OCLOP a work plan dated August 7, 2008 with an addendum dated October 22, 2008 that proposes to install 25 new groundwater monitoring wells in 14 locations to define the lateral and downgradient extents of the MtBE plume and for use in monitoring the effectiveness of the MtBE wellhead plume treatment system once it begins operation. The work plan was approved on December 19, 2008, by OCLOP with*

*minor revisions to the locations of two of the well clusters. The approved work will include the installation of four monitoring wells downgradient of the Dance Hall well. The well installation is scheduled to begin once the appropriate field preparations and access arrangements have been completed.*

**19. State Health may require an assessment portion of the 9705 [sic] requirements to be performed. How will this affect the IRAP schedule?**

*As discussed during a December 9, 2008 meeting with DPH, OCLOP, the City, and Chevron, a source water assessment for the Dance Hall well needs to be completed prior to startup of the wellhead plume treatment system. A revised source water assessment for the other GWRP wells and the proposed new GWRP wells also needs to be completed by the City at DPH's request, although the timing of that submittal is not tied to the operation of the Dance Hall wellhead plume treatment system. Chevron is willing to work with the City on the requirements related to the Dance Hall well. Based on DPH's current direction and estimation of the time needed for DPH to review the documents, Chevron believes that the source water assessment for the Dance Hall well can be completed in time to meet a revised IRAP schedule, once such a schedule is established.*

**20. Explain why Chevron selected the years and rainfall data using wet years versus average years or dry years. The next submittal of model runs using the city's full groundwater rights needs to incorporate various ranges of climatic conditions, (wet, average, dry).**

*The recharge data (including rainfall) used in the model for the predictive simulations are representative of historical conditions in SJC based on publicly-available historical data. Additionally, the City's consultant, Psomas, provided comments on the data periods used for model calibration, and the model was modified to incorporate their suggestions. The data are detailed in Appendices A, B, and C of the Preliminary IRAP Modeling Report and include a range of climactic conditions.*

**21. Identify all permits required for the IRAP GAC treatment system. Please note that the City holds Chevron responsible for identifying, obtaining and maintaining all required permits. The City will not assume this responsibility.**

*Required permits include an encroachment permit and easement from the property owner (OC Flood Control Division) and an amended water supply permit from the Department of Public Health.*

*Chevron has researched possible additional requirements and has been informed that no new permits or permit revisions are required from the following entities: City of SJC Planning Department, City of SJC Building Department, San Diego Regional Water Quality Control*

*Board, South Coast Air Quality Management District, South Orange County Wastewater Authority, and Orange County Fire Authority (OCFA). Furthermore, the City has notified Chevron of its intent to issue a Notice of Exemption that the project is categorically exempt from CEQA requirements.*

**22. No consideration was given to the plume released by station 9-8719. Include this plume in the subsequent modeling.**

*The current groundwater modeling is intended to evaluate conditions affecting the transport of the MtBE plume between Chevron Station 9-3417 and the Dance Hall well for the purposes of evaluating the effectiveness of the Dance Hall well as a remediation tool. Furthermore, the results of the IRAP modeling indicate that the plume from Station 9-8719 is not within the capture zone of the Dance Hall well and therefore is not material to the intent of the current model.*

*Nevertheless, investigation, analysis, and remediation, as needed, of the MtBE plume from Chevron Station 9-8719 are priorities to Chevron. These activities are being completed in parallel with the IRAP implementation for Station 9-3417.*

**23. The City requested a copy of all model runs, input and output. When will Chevron provide this data for our records? Psomas will need their own copies.**

*Please see response to Question #2.*

**The City will review Chevron's response, including the requested model run(s), and take into account City, County and State requirements prior to agreeing to commence on the IRAP letter to the County for the encroachment permit and the MOU needed in order for Chevron to commence construction of the Dancehall [sic] well MtBE treatment facilities.**

*As previously stated, Chevron believes the quickest, most efficient way to meet the City's stated objectives regarding the water supply is to begin treatment of the affected groundwater as soon as possible. Chevron has been working diligently on the necessary designs and studies to install and begin operating the treatment system, originally slated for February 2009. The construction of the equipment for the treatment system was on schedule to meet the February timeline, but the City's inaction on the letter of support to the Orange County Flood Control Division and the City's recent, major proposed changes to the proposed Memorandum of Understanding between Chevron and the City have delayed the startup of the wellhead treatment system. The February date to start the treatment system can no longer be met, and no new date can be set until the abovementioned two items are resolved.*

*It is up to the City to decide whether the treatment of the MtBE plume can be started in the near future, or later. If significant progress cannot be made very soon on these issues, Chevron will*

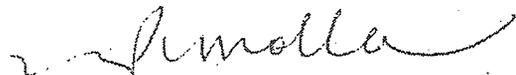
*have no choice but to move forward with other plans to remediate the MtBE plume without involving the Dance Hall well, as directed by OCLOP. Although the quickest way to get the GWRP up to full capacity is to implement the wellhead plume treatment system that has been approved by OCLOP, Chevron is prepared to implement one or more of its remedial alternatives, which do not involve the Dance Hall well or the GWRP, if discussions with the City reach an impasse.*

*Chevron believes that the outstanding questions can be resolved with the cooperation of the parties without further delaying the start of the plume treatment. There is no reason why the IRAP system cannot be constructed and put into operation removing the plume while at the same time, on a parallel course, any remaining issues are resolved. While Chevron remains committed to working with OCLOP and the City on the design, construction, and operation of the Dance Hall wellhead plume treatment system, we are mindful that the successful implementation of the IRAP requires the City's good-faith assistance and negotiation. Therefore, Chevron continues to develop and plan to implement other options, which will be outlined in the forthcoming February 2009 Corrective Action Plan (CAP).*

*Furthermore, Chevron reiterates that the intent of installing wellhead treatment at the Dance Hall well has always been to effect remediation of the MtBE plume and not because a detectable level of MtBE was present at a concentration below DPH's Detection Limit for the Purposes of Reporting (DLR) of 3 µg/L. Chevron reiterates that the water entering Dance Hall well, from an MtBE perspective, is safe and meets all applicable agency standards for drinking water for MtBE.*

In closing, we hope that this letter answers the questions that you have posed and corrects some of the misunderstandings in the November 24, 2008 letter.

Sincerely,



Natasha Molla

cc: Mayor Mark Nielsen - City of San Juan Capistrano  
Mayor Pro Tem. Londres Uso - City of San Juan Capistrano  
Councilman Thomas Hribar - City of San Juan Capistrano  
Councilwoman Laura Freese - City of San Juan Capistrano  
Councilman Sam Allevato - City of San Juan Capistrano  
Oliver Pacifico -Department of Public Health  
Heather Collins - Department of Public Health

January 6, 2009

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Dave Adams – City of San Juan Capistrano  
Bradley Hogin – Woodruff, Spradlin & Smart  
Omar Sandoval – Woodruff, Spradlin & Smart  
Eric Bauman – City of San Juan Capistrano  
West Curry – City of San Juan Capistrano  
Michael Donovan – Psomas  
Anthony Martínez – OCLOP  
Jack Fraim – Cedar Creek Consulting



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April 23, 2009

Ms. Shyamala Sundaram  
Orange County Local Oversight Program  
Environmental Health Division  
1241 East Dyer Road  
Santa Ana, California 92705

**RE: Response to the City of San Juan Capistrano's Letter Protesting the Corrective  
Action Plan Submitted by Chevron on February 17, 2009  
32001 Camino Capistrano, San Juan Capistrano, California (Station No. 9-3417)  
OCLOP Case No. 89UT27**

Dear Ms. Sundaram:

It is my understanding that on March 17, 2009, the City of San Juan Capistrano ("City") submitted a letter to the Orange County Local Oversight Program ("OCLOP") protesting the Corrective Action Plan ("CAP") submitted by Chevron Environmental Management Company ("Chevron") on February 17, 2009. As you know, in the CAP, Chevron proposes remedial actions to address the MtBE plume ("MtBE Plume") emanating from Chevron Service Station No. 9-3417, located at 32001 Camino Capistrano, in San Juan Capistrano, California (the "Site"). I am writing on behalf of Chevron to address the issues raised in the City's letter, and to correct many of the inaccurate statements made by the City as part of its "protest."

**I. EFFECT OF THE MTBE PLUME ON THE CITY'S WATER SUPPLY**

The City states that the City's Groundwater Recovery Plant ("GWRP") "has been forced to cut its production in half due to the contamination of MtBE from Chevron's plume," and that the City has allegedly incurred damages of approximately three million dollars as a result. The City also states that the MtBE Plume threatens all six of the City's GWRP wells, and that Chevron should be responsible for addressing MtBE contamination discovered in any of the wells.

These statements are incomplete and misleading. First and foremost, the City has had operational problems with the GWRP since approximately 2006, a little over a year after the GWRP was first brought on-line. The main problem was, and until very recently continued to be, production of colored water. In fact, the City shut down the GWRP from February 15, 2008 to September 19, 2008 to make much needed changes and improvements to its system. This shutdown was completely unrelated to the low levels of MtBE contamination discovered in the Dance Hall well in January 2008.

Moreover, the City's shutdown of the Dance Hall well was based on the City Council's concerns about public perception, not any actual risk to water consumers.<sup>1</sup> The levels of MtBE that have been detected have been below the primary and secondary maximum contaminant levels of 13 µg/L and 5 µg/L, respectively, as well as the Department of Public Health's detection limit for reporting ("DLR") of 3 µg/L. Accordingly, under both federal and state standards, the water is safe for all domestic uses, including human consumption. Chevron has explained this point to the City several times, and has also explained that by not operating the Dance Hall well, the City is increasing the probability that wells downgradient of the Dance Hall Well will also be contaminated with MtBE. Nonetheless, the City has refused to resume operation of the Dance Hall well.

## II. ADEQUACY OF CHEVRON'S RESPONSE

The City's letter claims that Chevron's investigation of the MtBE Plume "continues to move at a very slow pace." This is not true. Soon after the release occurred in 1988, Chevron excavated and removed approximately 400 tons of soil and removed about 1,650 gallons of gasoline. By using soil vapor extraction, Chevron decreased the concentrations in the onsite plume by a factor of approximately 100. After Chevron became aware that the City had installed the six supply wells associated with the GWRP in the area and that the Dance Hall well was downgradient of the site, Chevron has proceeded at an accelerated pace. For example, Chevron has installed 36 groundwater monitoring wells and has collected and analyzed over 240 grab groundwater samples and over 800 groundwater samples from groundwater monitoring wells. In addition, Chevron has drilled 74 soil borings and has collected more than 440 soil samples for analysis. Most recently, Chevron has installed 4 groundwater monitoring wells immediately downgradient from the Dance Hall well, and is pursuing access for 16 more wells in and around the MtBE Plume. All wells are sampled quarterly, and some are sampled monthly.

Furthermore, Chevron submitted an Interim Remedial Action Plan ("IRAP") to OCLOP in March 2008. The IRAP proposed granular activated carbon ("GAC") filtration of groundwater produced from the Dance Hall well to remediate the MtBE plume. OCLOP approved the IRAP in May 2008. Since the date of the IRAP submittal, Chevron has been working diligently to implement the IRAP. Chevron has completed the design for the Dance Hall Wellhead Treatment System,<sup>2</sup> has had a greensand filter manufactured, has identified available carbon canisters for use, and has submitted applications for necessary permits. Additionally, Chevron has completed the aquifer testing, numerical groundwater modeling, and site assessment activities proposed in the IRAP. Yet, implementation of the treatment system requires agreements with the City, which Chevron has been unable to secure, despite its extensive efforts.

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<sup>1</sup> This fact was made clear in the press release issued by the City on January 24, 2008, which stated, "As a precautionary measure, City officials have shutdown a well that was discovered to contain trace amounts of methyl tertiary butyl ether. The amount detected in the dance hall well, located near the Old Hot Springs Dance Hall at the south end of Paseo Adelanto, is **way below levels that would pose any threat to public health**; however, as a proactive measure to quell any public concern, the City has shut it off indefinitely" (emphasis added). The press release is available on the City's website at <http://www.sanjuancapistrano.org/index.aspx?recordid=522&page=29>.

<sup>2</sup> Chevron is still waiting for the City's comments on the 60 percent level design.

Ms. Shyamala Sundaram  
April 23, 2009  
Page 3

As a result, contrary to the City's claim, it is clear that Chevron has been working diligently to investigate and remediate the MtBE Plume.

III. THE CITY'S RESPONSE TO THE MTBE CONTAMINATION DISCOVERED AT KINOSHITA FARMS

In an effort to set itself apart from Chevron, the City states that it "had [its] own engineers deal with a tank leak on a City property where the contamination was promptly removed and treated with the use of an onsite lab for testing." This statement mischaracterizes what has actually occurred at Kinoshita Farms.

Simply put, the City has not received a no further action letter for this site; rather, it is only in the initial investigation phase. As you know, the City removed three underground storage tanks ("USTs") from the Kinoshita Farms property on June 6, 2008. Two months later, on August 14, 2008, the City submitted a tank removal report to OCLOP. The report stated that hydrocarbon contamination was discovered in the soil beneath UST Nos. 1 and 3, and that MtBE contamination was detected in the soil beneath UST No. 1, at levels ranging from 9.40J to 260 µg/kg. The report also "recommended that a workplan be prepared and submitted to [OCLOP] to further assess the lateral and vertical extent of soil impacts from UST No. 1 and UST No. 3, and assess if releases from the USTs has [sic] impacted groundwater beneath the tanks."

Based on the information in the tank removal report, on August 20, 2008, OCLOP sent the City a letter directing it to: (1) conduct an initial site investigation and characterization, and implement initial abatement actions; (2) perform a soil and groundwater investigation; (3) prepare and submit a corrective action plan; (4) implement the corrective action plan; and (5) perform verification monitoring. Pursuant to this directive, the City conducted a subsurface investigation at the Kinoshita Farms property in December 2008. This investigation revealed MtBE and TBA contamination in the soil and groundwater beneath the former UST No. 1 cavity.

Due to this contamination, on January 23, 2009, OCLOP sent the City a letter directing it to "install a minimum of three (3) shallow groundwater monitoring wells in the vicinity of UST#1 to delineate the lateral extent of the groundwater contamination." According to the letter, the City was required to prepare and submit a workplan for the installation of the monitoring wells within 30 days of the City's receipt of the letter (i.e., by approximately February 23, 2009). The City had not complied with this requirement as of our inquiry to your office on April 3, 2009. Thus, the City's suggestion that it has already finished investigating and cleaning up the contamination at the Kinoshita Farms property is inaccurate.

#### IV. ACTIONS PROPOSED IN THE CORRECTIVE ACTION PLAN

In its letter, the City states that Chevron has proposed treating "the 100-1000 parts per billion (ppb) portion of the plume located near the release site" with air-sparging and vapor extraction, and treating the remainder of the MtBE plume via GAC filters at the Dance Hall well. The City also asserts that if Chevron "is not able to use the Dance Hall well," then Chevron has proposed to treat "only the 100-1000 ppb portion" of the MtBE plume and will "allow the remainder of [the] MtBE plume to move toward the City wells." Additionally, the City suggests that the CAP itself is inadequate because it does not describe what actions will be taken if air-sparging and vapor extraction do not adequately remediate the MtBE plume.

First, in making these statements, the City ignores the fact that it has the sole discretion to determine whether Chevron will be "able to use the Dance Hall well." The City also mischaracterizes the ongoing negotiations with Chevron and the City relating to such use. Contrary to the City's statements, Chevron has actively sought the City's consent to use the Dance Hall well. In early November 2008, Chevron provided the City with a draft memorandum of understanding ("MOU"), and the parties met to discuss the MOU. The City made certain revisions to the MOU, and Chevron then proposed additional changes. The parties met again to discuss the MOU on January 14, 2009, and agreed that they would try to reach an agreement focused solely on the construction, installation, and operation of a wellhead treatment system at the Dance Hall well (the "Dance Hall Wellhead Treatment System"). However, a month later, the City sent Chevron a revised MOU that was a global settlement agreement, rather than the more focused agreement regarding the Dance Hall Wellhead Treatment System which the parties had agreed to negotiate. Despite its prior agreement at the January 14th meeting, the City now insists that the parties negotiate a global settlement. This chain of events demonstrates that the City's assertion that it "provided Chevron with a memorandum of understanding weeks ago to address the overall treatment, which [Chevron is] resisting" is misleading. Chevron has been very proactive in its efforts to finalize an agreement with the City. Instead, the City is the one holding up Chevron's implementation of the IRAP.

Second, contrary to the City's contention that the MtBE Plume is "moving toward the City wells at a rapid rate," MtBE plumes generally move slower than groundwater, and are affected by degradation, absorption, and dispersion. Further, any MtBE Plume movement that has occurred past the Dance Hall well can be largely attributed to the City's decision to continue to pump wells downgradient of the Dance Hall well, but not the Dance Hall well itself. Likewise, there is absolutely no technical or factual support for the City's far-fetched notion that the MtBE plume "may eventually work its way to the Pacific Ocean."

Third, with respect to the City's suggestion that the CAP does not provide a contingency plan if air-sparging and vapor extraction fail to adequately remediate the MtBE Plume, the combination of air sparging and vapor extraction is well established in the industry and has been effectively used at hundreds of sites. All available information suggests a high likelihood of success of the technique in this situation. Furthermore, it is common industry practice to perform a pilot test before conducting significant air-sparging and vapor extraction. As you know, pilot tests offer the responsible parties and the regulatory agency an opportunity to determine whether air-sparging and vapor extraction will be effective and to collect the data necessary to design a full-scale system. In keeping with this practice, Chevron intends to

perform air-sparging and a vapor extraction pilot test at the Site, and submitted a work plan to OCLOP on March 31, 2009 to do so. This pilot test will provide both Chevron and OCLOP valuable information about the effectiveness of the proposed treatment. If for any reason it is determined that air sparging and vapor extraction will not work as intended to remediate the plume, other steps will be proposed. To both assume that the remedy would fail and hypothesize in the CAP as to alternative remedies would be of little, if any, value.

#### V. THE CITY'S CONTENTIONS ABOUT THE NECESSARY CLEAN-UP LEVEL

Next, the City improperly states that the Regional Water Quality Control Board ("RWQCB") has "determined" that Chevron must remediate the MtBE Plume to a level of "non-detect," and that "non-detect" shall mean 0.2 ppb or less, depending on the best available technology at the time of closure. This is not true. As the RWQCB made clear in its April 6, 2009 response to the City's protest letter, "[t]he Regional Board has not set cleanup levels for the groundwater pollution from the Chevron station as of this date, and has only referenced requirements from the Basin Plan. Therefore the City's statement that '... the City and the Regional Water Quality Control Board have determined that the groundwater basin and/or any well with contamination of MtBE detected to 0.2 ppb or more should be treated ... until such time that the MtBE has been completely removed ...' **is incorrect**" (emphasis added). (A copy of the Regional Board's April 6, 2009 letter is attached.) Further, as the RWQCB explained in its April 6, 2009 letter, the Water Quality Control Plan, San Diego Basin (9) ("Basin Plan") includes criteria for determining appropriate soil and groundwater cleanup levels for the protection of both human health and the environment. The Basin Plan expressly provides for technological and economic feasibility to be taken into account in setting cleanup levels. Basin Plan at 4-97.

Finally, the City's statement that MtBE levels higher than 0.2 ppb would make the citizens of San Juan Capistrano *de facto* "biological filters" is completely untrue. Recently published studies suggest that reverse osmosis, like that used at the City's GWRP, can eliminate 75 to 98 percent of MtBE in municipal drinking water.<sup>3</sup> MtBE concentrations are further reduced by the type of blending that occurs at the City's GWRP. Thus, even at the current levels, the MtBE contamination discovered is very unlikely to be detectable in water delivered to the City's customers. For this reason, the City's demand that Chevron "purchase alternative water supplies, free of detectable MtBE," has no legal or factual basis. Further, given the fact that the MtBE contamination levels remain under both the primary and secondary MCLs for MtBE, the RWQCB has no legal authority to order Chevron to provide such replacement water. See *In re Petition of Olin Corp. & Standard Fusee, Inc.*, WQ 2005-007, 2005 WL 5166379 (Cal. St. Water Res. Bd. 2005) ("Where new water replacement orders are considered ... regional boards should defer to [the California Office of Environmental Health Hazard Assessment] and [the California Department of Health Services] in determining safe water drinking levels").

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<sup>3</sup> See Lenz, et al., 2005, *Performance of NF and RO Membranes on VOC Contaminated Groundwaters: Literature Summary and Pilot Test Results*; Liang, et al., 2001, *Evaluation of Methyl Tertiary-Butyl Ether and Perchlorate Rejection by Nanofiltration and Reverse Osmosis Membranes*; Loi-Brugger, et al., 2006, *Trace Contaminants Removal by RO/NF - Pilot Study for a 1,100 m<sup>3</sup>/hr Plant*; Verliefe, et al., 2006, *A Semi-Quantitative Method for Prediction of the Rejection of Uncharged Organic Micropollutants with Nanofiltration*; and Verliefe A., 2008, *Rejection of Organic Micropollutants by High Pressure Membranes (NF/RO)*.

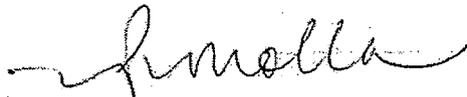
Ms. Shyamala Sundaram  
April 23, 2009  
Page 6

VI. CONCLUSION

Chevron has been and continues to be committed to remediating the MtBE plume in a timely manner. As explained in Chevron's CAP, Chevron believes the most effective and efficient way to clean up the MtBE Plume is through the use of air-sparging, vapor extraction, and GAC at the Dance Hall well. However, the Dance Hall well option can only be pursued with the consent and approval of the City. Chevron has made, and will continue to make, concerted efforts to obtain such consent and approval. Chevron is hopeful that the City will change its position and work cooperatively with Chevron to reach an agreement that benefits both the parties and the citizens of San Juan Capistrano.

Please contact me should you have any questions about or would like to discuss any of the issues above.

Sincerely,



Natasha M. Molla

cc: Mr. Dave Adams  
Mayor Mark Nielsen  
Mr. John O'Donnell  
Jill C. Teraoka, Esq.  
Soniya D. Ziegler, Esq.



Linda S. Adams  
Secretary for  
Environmental Protection

## California Regional Water Quality Control Board San Diego Region

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<http://www.waterboards.ca.gov/sandiego>



Arnold Schwarzenegger  
Governor

RECEIVED  
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NATASHA MOLLA

April 6, 2009

Mr. Mark Neilson  
Mayor, City of San Juan Capistrano  
32400 Paso Adelanto  
San Juan Capistrano, CA 92675

In Reply Refer to:  
**ORCGWU:50-1351.05:spease**

Dear Mr. Neilson:

**SUBJECT: RESPONSE TO PROTEST LETTER DATED MARCH 17, 2009  
CHEVRON CORRECTIVE ACTION PLAN  
32001 CAMINO CAPISTRANO, SAN JUAN CAPISTRANO, CA**

The City of San Juan Capistrano's letter dated March 17, 2009 contains several references to requirements of the Regional Board for cleanup of groundwater pollution. The purpose of this letter is to clarify what the Regional Board requires for cleanup of groundwater pollution.

The Regional Board has not set cleanup levels for the groundwater pollution from the Chevron station as of this date, and has only referenced the requirements from the Basin Plan. Therefore the City's statement that "...the City and the Regional Water Quality Control Board have determined that the groundwater basin and/or any well with contamination of MtBE detected to levels of 0.2 ppb or more should be treated...until such time that the MtBE has been completely removed..." is incorrect.

The *Water Quality Control Plan, San Diego Basin (9)* (Basin Plan) includes criteria for determining appropriate soil and groundwater cleanup levels for protection of both human health and the environment. The following is an excerpt from the Basin Plan, Chapter 4:

"The Regional Board sets cleanup goals based on the State's Antidegradation Policy set forth in State Board Resolution No. 68-16 and Resolution No. 92-49 Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under Water Code section 13304 and the Cleanup and Abatement Policy discussed later in this chapter. Under these policies, whenever the existing quality of water is better than that needed to protect present and potential beneficial uses, such existing quality will be maintained, with certain exceptions (as described in Chapter 5, Plans and Policies). Accordingly, the Regional Board prescribes cleanup goals that are based upon background concentrations. For those cases where dischargers have demonstrated that cleanup goals



**HOLGUIN, FAHAN & ASSOCIATES, INC.**  
**ENVIRONMENTAL MANAGEMENT CONSULTANTS**

May 11, 2009

Ms. Shyamala Sundaram  
Orange County Local Oversight Program  
Environmental Health Division  
1241 East Dyer Road, Suite 120  
Santa Ana, California 92705-5611

Subject: **RESPONSE TO ORANGE COUNTY LOCAL OVERSIGHT PROGRAM'S  
REVIEW OF THE CORRECTIVE ACTION PLAN FOR  
CHEVRON PRODUCTS COMPANY SERVICE STATION #9-3417  
32001 CAMINO CAPISTRANO, SAN JUAN CAPISTRANO, CALIFORNIA  
(OCLOP CASE #89UT027)**

Dear Ms. Sundaram:

On behalf of Chevron Environmental Management Company (CEMC), Holguin, Fahan & Associates, Inc. (HFA) submits this response to the correspondence dated May 1, 2009, from the Orange County Local Oversight Program (OCLOP) regarding the Corrective Action Plan (CAP) dated February 17, 2009, for Chevron Products Company Service Station #9-3417, 32001 Camino Capistrano, San Juan Capistrano, California (see Attachment 1 for a copy of the correspondence).

In the May 1, 2009 letter, the OCLOP approved the proposed source area remediation plan, which proposed the use of air sparging (AS) and soil vapor extraction (SVE) at and immediately downgradient of the station. As requested in the subject agency letter, CEMC will:

- submit a timeline for completion of the design, permit approvals, and construction of the system by June 1, 2009;
- complete additional source area assessment and AS/SVE pilot testing within 90 days of receipt of the letter;
- submit a CAP addendum to the OCLOP presenting the results of the source area assessment and pilot testing, and a conceptual design of an AS/SVE system (as proposed in the CAP and agreed in a telephone conversation between the OCLOP and HFA on May 6, 2009);
- complete installation and startup of the AS/SVE system within 90 days of the pilot testing or as soon as possible after that, depending on access and permitting;

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Contaminated Site Assessment • Fixed & Mobile Remediation • Project & Program Management

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800-672-0219

Redlands, CA  
909-793-4571

Tempe, AZ  
480-505-3332

Flagstaff, AZ  
928-779-5447

 <http://www.hfa.com>

**EXHIBIT 18**



ENVIRONMENTAL MANAGEMENT CONSULTANTS

HOLGUIN, FAHAN  
& ASSOCIATES, INC.

Ms. Shyamala Sundaram  
Orange County Local Oversight Program  
May 11, 2009 - Page 2

- provide certification that all current record owners of fee title and the current operator of the site have been notified of the CAP; and
- comply with the OCLOP's other requirements regarding the AS/SVE system (Items #1-7 under the heading "Source Area Remediation" in the May 1, 2009, letter).

Regarding the dissolved-phase plume remediation, CEMC shares the OCLOP's concern that an agreement has not yet been reached with the City of San Juan Capistrano (City) for use of the Dance Hall well for wellhead treatment, which is the most efficient method for treating the downgradient methyl tertiary butyl ether (MtBE) plume. CEMC also shares the OCLOP's concerns about the City's comments over the groundwater fate and transport model. The City's public statement that "by treating the MtBE at Dance Hall, other wells may become contaminated" (Orange County Register, May 6, 2009) has no technical basis in fact. It is clear even without modeling that pumping MtBE-containing groundwater from the Dance Hall well and remediating that water with wellhead treatment will reduce the amount of MtBE that may reach other City wells. Therefore, not pumping the Dance Hall well is more likely to cause the MtBE plume to spread further downgradient towards the other wells.

As directed in the OCLOP's letter dated November 17, 2008, the CAP included at least two remedial alternatives for restoring the beneficial uses of groundwater, including groundwater pump and treat and enhanced bioremediation. As requested by the OCLOP, CEMC will revisit potential options – albeit less effective than use of the Dance Hall well – for remediating the offsite dissolved-phase MtBE plume and submit a CAP addendum for those options to the OCLOP by June 15, 2009.

**ATTACHMENT 1.**

**OCLOP CORRESPONDENCE**



**COUNTY OF ORANGE  
HEALTH CARE AGENCY**

**PUBLIC HEALTH SERVICES  
ENVIRONMENTAL HEALTH**

**DAVID L. RILEY  
INTERIM DIRECTOR**

**DAVID M. SOULELES, MPH  
DEPUTY AGENCY DIRECTOR**

**RICHARD SANCHEZ, REHS, MPH  
DIRECTOR  
ENVIRONMENTAL HEALTH**



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SANTA ANA, CA 92705-5611

TELEPHONE: (714) 433-6000  
FAX: (714) 754-1732  
E-MAIL: ehealth@ochca.com

May 1, 2009

Natasha Molla  
Chevron Environmental Management Company  
145 S. State College Blvd.  
Brea, CA 92822-2292

**Subject: Corrective Action Plan dated February 17, 2009 prepared by Holguin, Fahan & Associates, Inc.**

**Re: Chevron Station #9-3417  
32001 Camino Capistrano  
San Juan Capistrano, CA  
OCHCA Case #89UT027**

Dear Ms. Molla:

The Orange County Health Care Agency, Environmental Health, Local Oversight Program (OCLOP) has reviewed the Corrective Action Plan (CAP) prepared by Holguin, Fahan & Associates, Inc. for the referenced site. The CAP includes findings from the most recent phase of site investigation conducted on-site, provisions for active remediation at or near the source area, the results of a feasibility study, and applicable cleanup levels for groundwater that is affected by the unauthorized release of petroleum hydrocarbon contamination at the Chevron site. The CAP identifies the contaminant plume as having two parts that require different remedial approaches for the purposes of mass removal. The source area includes the on-site vadose zone impacts beneath the underground storage tanks (USTs) and the southern dispenser island, and the smear zone in these areas and immediately downgradient of the site. The dissolved-phase plume includes groundwater contamination at lower concentrations than in the source area, extending downgradient from the source area to the Dance Hall well and vertically from the base of the smear zone downward. Based on the above assumptions, the CAP evaluates various remedial technologies to achieve cost-effective mass removal from the source area and off-site dissolved plume.

A 30-day public notification was posted by the OCLOP on February 26, 2009 in accordance to California UST Regulations, Title 23, Chapter 16, Section 2728. As of April 7, 2009, responses were received from nine (9) public agencies advocating the rejection of the proposed CAP. All response letters received were reviewed by the OCLOP staff.

The CAP proposes the use of air sparging (AS) and soil vapor extraction (SVE) to remediate soil and groundwater as source area remediation, and groundwater pump & treat (GWPT) using the Dance Hall well to achieve mass removal of the downgradient MTBE plume. Based on the review, the proposed CAP is incomplete and therefore not acceptable to the OCLOP. Chevron is directed to submit a revised CAP that addresses the following comments:

**Source Area Remediation:**

1. The OCLOP concurs with the proposed AS/SVE system to remediate the source area extending from the USTs and southern dispenser island to at least approximately 200 feet south of the site. The OCLOP is acceptable to the proposal to assess the source area further and conduct a SVE pilot test in order to determine the feasibility and design parameters for installing a remediation system in the source area.
2. The AS/SVE remediation system must operate continuously until it can be demonstrated that asymptotic reduction in hydrocarbon vapors recovery has been achieved by the AS/SVE system prior to requesting approval to pulse or shut down the system. Furthermore, prior to shut down, the system should be operated intermittently for 2 or 3 events to demonstrate that vapor concentrations do not rebound. The SVE system must operate to its maximum efficiency prior to operating it intermittently to show that the inlet vapor concentrations do not rebound. The OCLOP must approve any intermittent operation or shutdown of the system.
3. The SVE system must be capable of measuring soil vapor concentration at the system inlet and for individual wells. Field readings of the system influent and individual wellhead vapor samples may be measured on a weekly basis in conjunction with regular operation and maintenance events for the proposed remediation system. However, please note that the system influent vapor samples must be analyzed by a certified laboratory on a monthly basis and the individual wellhead samples must be analyzed on a quarterly basis (at a minimum), for confirmation.
4. Quarterly remedial progress reports should include for the SVE system, individual wellhead influent vapor concentrations and manifold (total) influent vapor concentration, vacuum pressure, flow rate from individual wells and from the system inlet, and hydrocarbon mass removed, as proposed in the CAP. For AS system, the progress reports should identify the wells used for sparging and the total duration of operation during the reporting quarter.
5. Hydrocarbon mass removal calculations must be provided in a table format and included in the remedial progress report. Reports must contain tabular summary of recovered contaminant mass and include the calculation used to determine the contaminant mass removed with sources of all data used, formulas, and assumptions made in the calculations.
6. Verification borings will be required after completion of proposed source area remediation. A workplan must be submitted to the OCLOP for review and approval at that time prior to shutdown of the remediation system.

constituents of concern. It should be noted that cleanup levels for the groundwater pollution from the referenced site has not been set as of this date, as stated by San Diego Regional Water Quality Control Board (RWQCB) by letter dated April 6, 2009. For cases where dischargers have demonstrated that cleanup goals based on background concentrations cannot be attained due to technological and economic limitations, State Water Resources Control Board Resolutions No. 68-16 and No. 92-49 set forth policies for cleanup and abatement based on the protection of beneficial uses. Active remediation and groundwater monitoring at this site will continue until the OCLOP and the San Diego RWQCB concur that the numerical water quality objectives designated in the Regional Board's water quality control plan have been reached and are stable or until it has been demonstrated that the levels will be reached by natural attenuation (biodegradation, advection-dispersion-diffusion, and dilution) in a reasonable time frame.

It should be noted that OCLOP approval of the IRAP, which proposed Dance Hall well head treatment design using granular activated carbon with greensand filtration, was intended to provide an expedited response to the MTBE contamination that caused the City to stop producing drinking water from the Dance Hall Well, with the interim goal of bringing this well back into production for the City water supply. Chevron's consultant presented the results of a groundwater flow and contaminant transport model to evaluate the effectiveness of the Dance Hall well for capturing the MTBE plume. Results from the modeling suggested that the Dance Hall well will capture and control the known extent of the dissolved phase MTBE plume with certain assumptions. However, the City has questioned the validity of the assumptions made by Chevron and its consultant regarding the aquifer analysis in the model. To address these concerns, the City requested modifications to the groundwater modeling parameters to evaluate the potential impact that pumping at the Dance Hall well may have on the operation of other City production wells under more realistic field conditions. It is OCLOP's understanding that the modeling issues have not been resolved between Chevron and the City to date.

The OCLOP is requiring the submittal of a revised CAP because Chevron has stated in the CAP that it considers groundwater extraction from the Dance Hall well using granular activated carbon to be the only cost-effective remedial treatment for mass removal of dissolved plume remediation and has provided no alternative remedial methods. As the City must approve the proposed wellhead treatment remedy and that approval has not been forthcoming, another method of remediation will be necessary to control the off-site lower concentration part of the dissolved MTBE plume. Therefore, Chevron is hereby directed to submit a revised CAP for this site by June 15, 2009.

The revised CAP must address all requirements of California UST Regulations, Title 23, Chapter 16, Section 2725. In particular, Section 2725(f)(2) requires the CAP to include at least two remedial alternatives for restoring the beneficial uses of groundwater in this area. As directed by OCLOP by letter dated November 17, 2008, the revised CAP should address one remedial alternative that includes installation and operation of an up-gradient remediation system if pumping the Dance Hall well is stopped. The other remedial alternative should address the potential that the Dance Hall well does not achieve specified performance standards or cleanup objectives within a given time-frame which would then require installation of a supplemental up-gradient remediation system for dissolved plume remediation.

Natasha Molla  
May 1, 2009  
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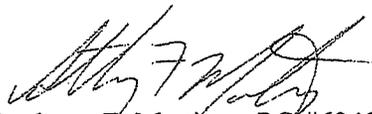
A complete and comprehensive revised CAP that addresses both source area remediation and dissolved plume remediation must be submitted to the OCLOP. Chevron is expected to conduct active remediation closer to the source area and address the off-site dissolved plume to regulatory cleanup standards that are acceptable to OCLOP and the San Diego RWQCB. Long-term monitored natural attenuation may provide the final cleanup of the dissolved plume to the regulatory standards, after mass removal of the source area and dissolved plume is completed and risks to potential receptors have been mitigated.

If you have any questions, please contact Anthony Martinez at (714) 433-6260, or Shyamala K. Sundaram, Hazardous Waste Specialist in charge of this case at (714) 433-6262.

Sincerely,



Patricia Henshaw, REHS, MPA  
Program Manager  
Hazardous Materials Mitigation Section  
Environmental Health



Anthony F. Martinez, PG #6948, CHG #688, CEG #2255  
Supervising Hazardous Waste Specialist  
Local Oversight Program  
Environmental Health

cc: Richard Sanchez, Director, Orange County Environmental Health  
Mark Nielsen, Mayor, City of San Juan Capistrano  
Dave Adams, City Manager, City of San Juan Capistrano  
John O'Donnell, Utilities Director, City of San Juan Capistrano  
Steven H. Edelman, Holguin, Fahan & Associates, Inc., Pleasanton, CA  
Jack Fraim, Cedar Creek Consulting  
Julie Chan, San Diego Regional Water Quality Control Board  
Gerald Buck, Property Owner

**MINUTES**  
**May 6, 2008**  
**SAN JUAN CAPISTRANO CITY COUNCIL REGULAR MEETING**

**CLOSED SESSION:** Closed Session was held at 5:00 p.m. as a Special Meeting  
– see separate agenda & minutes.

**BUSINESS SESSION**

Mayor Soto called the Regular Meeting of the City Council of the City of San Juan Capistrano to order at 6:43 p.m. in the City Council Chamber. Council Member Hribar led the Pledge of Allegiance and Council Member Allevato gave the invocation.

**ROLL CALL**

**COUNCIL MEMBERS PRESENT:** Sam Allevato, Tom Hribar, Dr. Londres Uso, Mayor pro tem Mark Nielsen and Mayor Joe Soto

**COUNCIL MEMBERS ABSENT:** None

**STAFF PRESENT:** Dave Adams, City Manager; Omar Sandoval, City Attorney; Cynthia L. Russell, Assistant City Manager; Maria Morris, Deputy City Clerk; Steve Apple, Planning Director; Nasser Abbaszadeh, Engineering & Building Director; Karen Crocker, Community Services Director; Lt. Mike Betzler, Chief of Police; Grant Taylor, Assistant Planning Director; Douglas Dumhart, Economic Development Manager; Eric Bauman, Water Engineering Manager; Bill Ramsey, Principal Planner; Alan Oswald, Senior Traffic Engineer; David Contreras, Senior Planner; and Eileen White, Recording Secretary.

Agenda items are presented in the originally agendized format for the benefit of the minutes' reader, but were not necessarily heard in that order.

**ANNOUNCEMENT OF CLOSED SESSION ACTIONS** - None

**CITY COUNCIL COMMENTS AND ORAL REPORTS**

Council Member Allevato reported he was elected to Chair the Orange County Transportation Authority Growth Area #9 Committee and voted to approve a \$200,000 grant for JSerra/Rancho Niguel Road intersection improvements; announced Capistrano Animal Rescue Effort is in the planning process for their adoption center and targeting Halloween for the grand opening; and stated the US Fish and Wildlife Service has issued confirmation that the 241 toll road is in compliance with the Endangered Species Act.

3. INTERSTATE 5/STATE ROUTE 74 (ORTEGA HIGHWAY) INTERCHANGE IMPROVEMENT PROJECT PLANS PRESENTED, WITH COUNCIL REQUEST FOR EXTENDED PUBLIC COMMENT PERIOD. (DEIR/EA) (800.20)

Amy Walston, Principal Environmental Planner representing California Department of Transportation (Caltrans) presented a report regarding the proposed I-5/State Route 74 (Ortega Highway) Interchange Improvement Project.

Council Action: Moved by Mayor pro tem Nielsen, seconded by Mayor Soto and carried unanimously, 5-0, to request the California Department of Transportation extend the public comment period for the Environmental Impact Report an additional 30 days.

4. STATUS REPORT RECEIVED CONCERNING METHYL TERTIARY BUTYL ETHER (MTBE) TESTING AND REMEDIATION CONDUCTED BY CHEVRON (530.25)

Michael Donovan, representing PSOMAS, narrated a slide presentation. Jack Frame, representing Chevron, narrated a slide presentation.

5. COMMISSIONERS PRESENT AT MEETING INTRODUCED. (110.10)

Mayor pro tem Nielsen recognized the following individuals in attendance: Gail Zukow, Kathy Hooper, and Ronald Denman, Parks, Recreation and Equestrian Commission; Ginny Kerr and Robert Cardoza, Planning Commission; Jeff Parkhurst, Design Review Committee; Don Tryon, Cultural Heritage Commission; William Bonney, Housing Advisory Committee; and Scott Brown, Orange County Fire Authority.

**ORAL COMMUNICATIONS**

Joan Irvine Smith, City resident, provided information about the Irvine Ranch Natural Landmark program, stewardship of open lands, Heritage Art Sale planned for this month; and thanked Council for their action related to the Ortega Highway Interchange.

Jim Vance, City resident, spoke regarding the ongoing resident purchase of the Capistrano Mobile Home Park and appraisal process.

**CONSENT CALENDAR**

Council Action: Moved by Council Member Allevato, seconded by Mayor pro tem Nielsen, and carried unanimously, 5-0, to approve items 1 through 6, and 8, 9, 10, 12 and 13 as recommended by staff.

1. MOTION TO READ ORDINANCES BY TITLE ONLY APPROVED.

Written Communications: Report dated May 6, 2008, by Eric Bauman, Water Engineering Manager.

Presentation: Cindy Russell, Assistant City Manager, summarized the staff report. She noted Karl Seckel, representing MWDOC, was present and available for questions.

Council Action: Moved by Council Member Allevato, seconded by Mayor Soto and carried unanimously, 5-0, to approve the Agency Participation Agreement with MWDOC, SCWD, LBCWD, and MNWD in the exploration of feasibility, cost, benefits, and need for development of domestic water supply from an ocean water desalinization plant; allocate \$236,000 from the capital reserve fund for this project and include project as a new Capital Improvement Project for Fiscal Year 2007-08; select Council Member Hribar as a delegate, and Mayor Soto as an alternate to represent the City in the Project Participation Committee; and authorize the City Manager to execute the final version of the agreement substantially in conformance with the attached version.

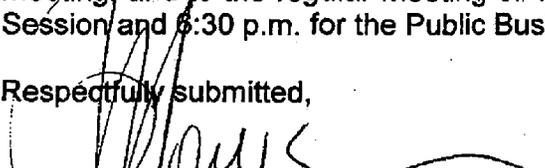
**ORDINANCES** - None

**COUNCILMANIC ITEMS** - None

**ADJOURNMENT**

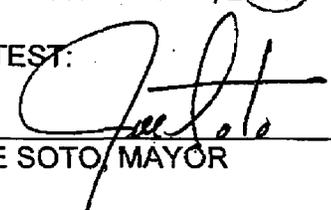
There being no further business, Mayor Soto adjourned the meeting on Wednesday, May 7, 2008, at 2:04 a.m. to Tuesday, May 14, 2008 at 3:00 p.m. for a budget workshop meeting; and to the regular meeting of Tuesday, May 20, 2008 at 5:30 p.m. for Closed Session and 6:30 p.m. for the Public Business Session in the City Council Chamber.

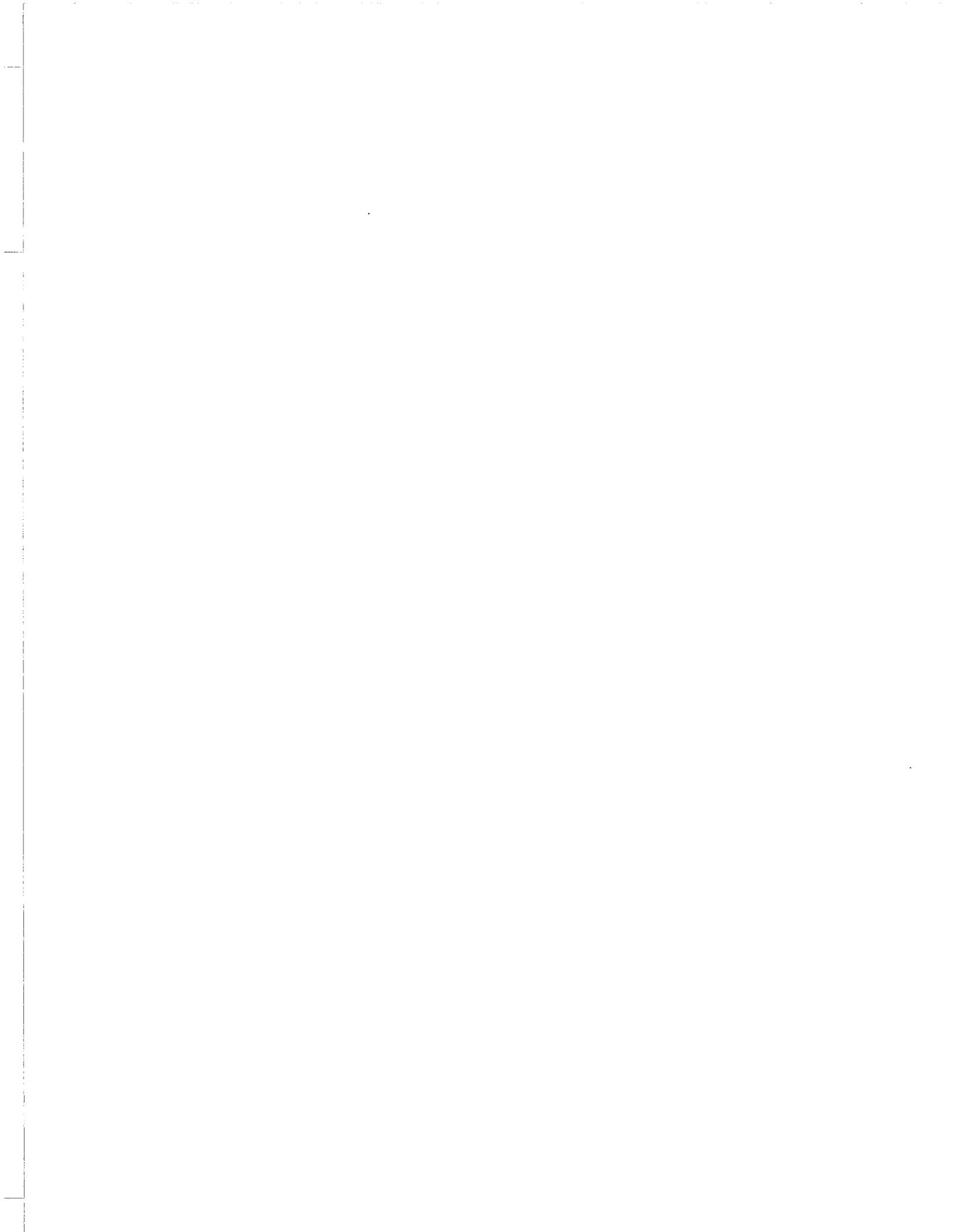
Respectfully submitted,

  
\_\_\_\_\_  
MARIA MORRIS, DEPUTY CITY CLERK

Approved: June 17, 2008

ATTEST:

  
\_\_\_\_\_  
JOE SOTO, MAYOR



**1 - 5.6.2008 - CC - CRA**

Amy Walston: It's approximately two years of construction commencing in 2011, ending in late 2013.

00:52:00 Um, right now we have a Fall of 2013 for construction to end. That means it would be, you know--so, basically 2011 to 2013.

Mayor Joe Soto: Two years. All right, very good, good. Um, I want to thank you for the presentation.

Amy Walston: Thank you.

Mayor Joe Soto: And, uh, we will move on to our next presentation.

00:52:30 Female Voice: Yes. The next presentation is [unintelligible] status report of MTBE testing and elimination conducted by Chevron.

Mayor Joe Soto: All right; does anyone from the public wish to weigh in on the previous presentation regarding the interchange? I don't have any slips here from anyone wishing to speak on that issue. So Sam and--

00:53:00 Male Voice: Mr. Mayor, if there's certainly anyone who is interested in this and this is the first time that some people are getting at this can give their comments either to us or to Caltrans either via their Web page or ours or in writing. We'll certainly pass those along.

Mayor Joe Soto: Thank you, Mr. City Manager. I would encourage that now is the time to go get up and raise any concerns or, as I said earlier, weigh in on the issue.

00:53:30 Uh, this 60-day or 30-day grace period rolls around fairly quickly, so the sooner we hear from your folks the better. [That looks okay]. Let me move onto the next, um, presentation.

Margaret Monahan: Thank you, Mr. Mayor. On the update for the MTBE investigations, Michael Donovan of PSOMAS, the city's consultant, overseeing this project will give the, um, first presentation followed by the [unintelligible] Chevron has a short presentation they would like to provide as well for council questions after that.

00:54:00 Um, so I'd like to introduce Michael Donovan and we'll go through these presentations. Thank you.

Michael Donovan: Good evening, council. Uh, this is an update since the, uh, last meeting, the, uh, last presentation on March 18th of 2008.

00:54:30 Um, just to familiarize everyone; the project is the Chevron service station on Camino Capistrano. Uh, the impacted well the Dance Hall well. This picture is oriented so the, uh, north arrow is on the right and the south is on the left. Um, the service station is located on the far left side or--I'm sorry--the far right side and the Dance Hall well on the far left.

00:55:00 Uh, the, uh, site investigation activities that have been done is that on March 26th Chevron submitted an IRAP report, which is an interim review action plan that was requested by the Orange County Healthcare Agency. Uh, in that plan they recommended the well head

treatment system or the Dance Hall well and that system consisted of a green sand filter, a granulated activated carbon, uh, assembly and a cartridge filter to treat the water for MTBE.

00:55:30 Um, on April 3rd, Chevron continued some CPT investigation, uh, advancing the CPT 13 at Camino Capistrano 32401. That's in the [Vaughn's] parking lot area.

00:56:00 In addition, they are trying to obtain access with the city of San Juan to ongoing monitoring activities at the wells that were installed at the back area of MW16 A, B, C, and D and they also for commencing a pump test on April 14th. And then on April 14th through the 21st, Chevron conducted an aquifer test of the city's Dance Hall supply well. Monitoring occurred on six [desalter] wells, two San Juan Basin Authority wells, and 18 Chevron monitoring wells during the period.

00:56:30 Just from looking at a preliminary of the San Juan Basin Authority data, one of the wells, MW3, looked like the response was very good and looked like it will be. Hopefully the rest of the wells reported some good information. We transmitted our information.

00:57:00 The San Juan Basin Authority transmitted information on two of the wells to Chevron on the 25th and requested that, uh, the data they collected would reciprocate and provide to us and, uh, the indicated they would approximately in one week's time. On April 22nd, we gave a presentation to the Water Advisory Commission providing updates on the activities, and on April 24th we provided a--Chevron provided a

report on the instillation of wells 15B and the MW well 16 A, B, and C and the monthly sampling associated with those wells.

00:57:30

On April 24th, PSOMAS submitted comments on the IRAP to Orange County Healthcare Agency. In summary, the report has some unsupported statements concerning the mitigating and the downgrading of the MTBE with the Dance Hall well. It also lacked details concerning the location and discharge of waste effluent that was--that would be associated with the well head treatment system.

00:58:00

And it also had some unsupported statements concerning using the system as an overall corrective action, meaning that the Dance Hall treatment system would be used as an overall final corrective action for the project. But, all in all with respect to the concept of the IRAP and the Dance Hall being used as an interim [remedial] action plan, it looked like a good idea.

00:58:30

On April 28th, Chevron conducted monthly groundwater sampling for wells MW15 A, B, C and D and MW16--these are the closest wells to the Dance Hall well--and was required by the Orange County Healthcare Agency to continue to do monthly samplings with those wells. On the week of May 5th, Chevron reported that it was going to submit the first quarter 2008 groundwater monitoring and sampling report.

00:59:00

I have yet to receive that report, and they are continuing onsite negotiations with various properties to continue on with the various entities. I'm going to back up just for a second. If you can see, there

are red spots. I should have made them a little bit bigger, but those red spots are what additional investigations that they are going to conduct.

00:59:30

Only the one located--I can't indicate--but, uh, in the center of the [Vaughn's] parking lot is the only one that I'm aware of that has been any investigation conducted. For the Ortega Highway site, as you recall, that's located at the Ortega and I-5 intersection, there--some investigations were conducted at Denault's Hardware where they got access, also at the Orange County Fire Authority fire station.

01:00:00

Chevron has indicated that a report and the results of those investigations would be submitted this week. Uh, on April 24th, uh, Chevron submitted the first quarterly groundwater sampling for the Orange--to the Orange County Healthcare Agency, the groundwater sampling associated with this station.

01:00:30

Uh, just to familiarize everyone with the, uh, uh, locations; the station is on the, um, uh, on the far, uh, right and the investigations--the only investigations that have been conducted are right almost dead center lower part and, uh, over on the--let's see. Do I have a--do I have a mouse? Yeah. Um, into, uh, Denault's Hardware right in this area and at the fire station right in this area.

01:01:00

Um, Chevron continued negotiations to access some properties that ring the area. Uh, the, uh, the investigations have not been completed and there is numerous areas where Chevron has to get access in order to find out the extent of the plume, and

01:01:30 Chevron is continuing to get, uh, difficulties with getting access, uh, hampered by some tenants not responding to, uh, phones or letters, um, but they are continuing to try and get access. On April 24th, Chevron submitted the first quarter, uh, 2008 groundwater sampling report, um, and on the week of May 5th, uh, Chevron is--will submit, supposedly, the reports about borings that were put in on the Denault Hardware and fire department properties; as yet, not received those reports.

01:02:00 And as soon as they get access, they are reporting that they will be able to do the continuing investigation on that--uh, adjacent to their station. With respect to the [Kenishia] well, um, we had recommended that, uh, certain activities be conducted, um . . . located adjacent to the [Kenishia] well.

01:02:30 Um, proposals were received from two consultants and recommendations were made to the city of San Juan and the city of San Juan is presently in the process of, uh, negotiating a contract with, uh, the contractor of preference, [Halie].

01:03:00 And that is it. If you have--that's it for my presentation. If you have any questions I'd be glad to answer.

Mayor Joe Soto: Thank you, Mr. Donovan. Any questions, colleagues? No? Council member Hribar?

Thomas Hribar: Does our groundwater recovery plan remove MTBE?

01:03:30 Michael Donovan: It is not set up to remove MTBE.

Thomas Hribar: What would it take to, uh, set it up?

Michael Donovan: Uh . . . um--

Thomas Hribar: Just in a nutshell.

Michael Donovan: In a nutshell, you'd have to, uh, install, uh, either a, uh, system such as granulated activated carbon to remove it or doing some other kind of methodology such as Hypox, which is a, uh, uh, a, um, methodology for essentially breaking down and destroying the MTBE.

01:04:00 And given the pump rate at which water--it would be a very big system.

Thomas Hribar: Thank you.

Mayor Joe Soto: Mayor Pro Tem?

Mark Nielsen: Just a question on the recommendation of the IRAP for the treatment system. [You said] it would be located by the GWRP [preliminary] recovery plans and that this is a 16-foot by 76-foot long facility that would be 30 to 40-feet in height.

01:04:30 Is this a building? Is this a structure? What is it?

Michael Donovan: This is a--just a preliminary. Uh, these are--we had, uh, um, no restrictions on space. This is what the configuration would be, but obviously it consists of a number of tanks and filter assemblies that could be altered as far as how they are oriented. Also, they could be, um, slightly remote from one another.

01:05:00 They don't have to be all together because piping can put the water together, but the 30 feet on height probably is something that, uh, would--you can't get around. It would be required to be at least, uh, that amount. That's the way the vessels are designed to operate.

Mark Nielsen: And basically all the water coming from the Dance Hall well would go through this process before it went into the groundwater recovery plan?

Michael Donovan: Correct.

Mark Nielsen: Thank you.

01:05:30 Mayor Joe Soto: Council member Hribar?

Thomas Hribar: Could we build that facility 10 feet underground so the, uh, portion of it would be below grade?

Michael Donovan: Um, all that, uh--there are issues associated with that and you'd have to talk with, uh, uh, various engineers and so forth of how you could construct that. It's cost and, uh, issues associated with, um, uh, putting certain equipment below grade and so forth.

01:06:00            So I can't answer whether this particular system could be arranged to be put underground.

Mayor Joe Soto:    Thank you, Mr. Donovan. Um, Cindy, do we have Chevron?

Cindy:              Next item by Natasha [Muller] by Chevron.

Margaret Monahan: Jack Fraim actually, on behalf of Chevron for the next presentation.

01:06:30            Jack Fraim:            Good evening, gentlemen. I'm Jack Fraim of Cedar Creek Consulting representing Chevron. In--in the past we have, I guess, been accused of not being as responsive as the council would like and I'd like to have the opportunity to show you what we have been doing, which I think is a considerable amount, and afterwards answer any questions you'd like to have.

01:07:00            This is an overview of the issues that I would address tonight. Uh, these are the significant events that we believe have taken place since, uh, the end of last year and the beginning of this year. This is the schematic showing you the location of the two service stations relative to the 60 sulfur wells.

01:07:30            [Unintelligible] see the two wells under the service stations involved and the--your--your [unintelligible] wells. This is a, if you will, a generalization of some of the major items we've done. The ones that are more in yellow are the written reports that we submitted on [the

respective] project relative to the Capistrano service station and then in orange for the, uh, Ortega Highway.

01:08:00

And the [field work] has been the things that have been significant and I apologize for the--you'll be able to see the [pointer] or not. I'll discuss it a little bit later on. One of the major items today will be the aquifer test on April 14 through the 16th, and then we had a recovery period followup.

01:08:30

And this is a similar [unintelligible] communications from the meetings that we've done with the city staff and the city's [unintelligible]. We also had a meeting with Orange County and the Southwest Water Company relative to the IRAP, and we also had a meeting with the city staff, PSOMAS, and Southwest Water relative to the [aquifer] test. And I would point out that from now forward we're going to have to have a lot of [close] communication with the city and the staff.

01:09:00

Since late last year and the first part of this year, we've installed 17 monitor wells associated with the service station closest to the Dance Hall well, and this is the locations of those. And this is the latest [unintelligible] results associated with those wells.

01:09:30

You'll notice, again I'm not sure you can see, but this is the well closest to the Dance Hall. The highest concentration and the [unintelligible] approximates the [unintelligible] well 3 was 1.4; that's part per billion. As Mr. Donovan said, we had submitted an IRAP to

Orange County Health on the 26th and basic communications with Orange County.

- 01:10:00 We expect to have a response from them this week, as early as, perhaps, tomorrow. In that IRAP we [offered up] the treatment of the Dance Hall well [unintelligible] which would [unintelligible].
- 01:10:30 There are other technologies that [unintelligible], but this is one of-- this is actually the most tried and proven, and from an operation standpoint it's significantly less [unintelligible] some other which are more in the form of still trial stages. The [unintelligible] here is that once we treat the Dance Hall well the water would be blended with the other waters from the [other five wells].
- 01:11:00 Once we have the approval from Orange County to move forward with the plan, it's going to take us nine months to design, fabricate and build the facility and during that building period it's going to require a significant amount of cooperation and coordination with city staff, their consultant, and the design contractor, and the construction.
- 01:11:30 We have [unintelligible] associated with the IRAP. The analysis of the [aquifer] test is ongoing. We should have the results from that shortly. We also moved ahead taking water from the [unintelligible] at the time. We ran the aqua test and we're getting the [unintelligible] tests, and I'll discuss that a little bit later.
- 01:12:00 With the information obtained from the aqua test we'll be able to determine the aqua characteristics that are essential in the modeling,

and then we will be preparing a model to determine the flow and transport of the MTBE. The aqua test, as Mr. Donovan said, was conducted in April. We thing, based on preliminary analysis, [that it was a successful test]. We had very good drawdown from the Dance Hall well.

01:12:30

We had a large number of monitor wells in the area; we were able to measure the drawdowns and the recovery, and I'll show you those shortly but water was discharged to the [unintelligible]. The well itself, at this location-you can see that little arrow--[unintelligible] so it wouldn't go any further and we diverted the water to this line to the [sewer].

01:13:00

And those--the cost associated with that was paid for by Chevron, and the activity associated with running the aquifer test had no impact on your groundwater recovery plan. And this is a schematic showing the locations of all the wells involved during the analysis of the--or the measuring of the drawdowns. We included all three wells [unintelligible] wells from the San Juan Basin and the wells associated with the closest service station.

01:13:30

As I mentioned, [unintelligible] in fact, on the second day we obtained sufficient water, shipped them a lab in Buffalo, New York to run the [unintelligible] test, and the benefit of this is generally we'd [unintelligible] how the carbon is going to work on the water to remove the contaminants.

01:16:00 This is, um, a listing of the results of analysis of MTBE and the Dance Hall well that we have. You'll notice our last [unintelligible] February 13th. That was the last one we've been able to obtain. I spoke with Mr. [Browning] before the meeting and he assured me that there are others that we will hopefully get by the end of this week, but you'll notice that all of them are [significantly] below the [unintelligible] advisory level.

01:16:30 They're below the California Department of Public Health primary [MCL] and actually below the secondary [MCL], so there's been no [unintelligible] documented to date at any of the MCLs. Since the concentrations on the Dance Hall well have been below the secondary MCLs, it's Chevron's position that the water's safe to drink and we highly recommend the Dance Hall well be [started] once the groundwater recovery plant is [back on].

01:17:00 Relative to the groundwater recovery plant, we actually accelerated our [unintelligible] to get the aqua test in and having been given the understanding that the treatment plant is actually going to be ready [unintelligible] not the case. Uh, the plant still has not started, but in any event, the aqua test that we did and the recovery had no impact on the operations of the plant.

01:17:30 And with that, gentlemen, I'd be happy to answer any questions you have.

Mayor Joe Soto: Gentlemen, any questions? Dr. Uso?

Dr. Londres Uso: Could you give me a realistic timeline as to when the mitigation of process will begin so that--I know that you feel and Chevron feels that it's okay to put this water forth and use it for our residents, but apparently this council does not.

01:18:00 So, we need to know when will you be able to mitigate this problem that Chevron caused so that we can then start using this very, very valuable asset to our community.

01:18:30 Jack Fraim: Yes, sir. I understand your question and we're able to [unintelligible] timeframe and we believe it will take us a minimum of six months, maybe nine from the time that we receive the go ahead from Orange County on the ability to use Dance Hall as a recovery and put on well head treatment. Now, we were led to believe that, uh, when we talked with Southwest Water Company, there were certain spaces were going to be available--made available because obviously space availability is a critical issue to us.

01:19:00 I am under the impression that perhaps there are going to be changes in how the plant is going to be run and what the plant is going to look like. We have not been privy to that information. Any significant change or lack of space can greatly affect that time.

Dr. Londres Uso: Thank you, sir.

Mayor Joe Soto: Any other questions? All right. Thank you very much, sir, for your presentation.

Letters  
(Cont. from page 10)

make me a racist?

I support legal immigration and oppose illegal immigration. To me the country of origin, skin color, and language spoken do not matter.

Unfortunately, when you look at the politics of 2009 California (and many other places) you are looking at a very complicated, controversial, contentious picture and the race issue is right in the middle. That is why most people are very reluctant (afraid) to deal with the issues of illegal immigration. Any person who dares to deal with this in a forthright fashion does so at the risk of criticism and being labeled a racist (there are other consequences too). The cost to us, here in SJC, as in many other locales, is that our paid and elected officials become very reluctant to deal with urgent situations that need attention and leadership. They lose the political will to make difficult decisions, if they even had it to begin with.

Back to the definitions of racism, as seen above (taken from a dictionary). One can see the definitions do not identify one particular race as being inherently racist, and other races as being inherently victims of racism. I believe that each person has a choice in the matter. Anybody can be a racist or anybody can be free from racism. Environmental conditioning probably plays as large a part as anything here but I don't believe that this absolutely dictates one's beliefs or actions.

But, somehow, our society has come to accept the notion that racism is strictly a white property. In reality though, it is owned by everybody.

In our fear of being labeled racist, we accommodate and enable acts of racism to occur every day. Right here in San Juan Capistrano one doesn't have to dig very deep at all to find many examples of this.

- Laws not being enforced equally – There are laws being broken by illegal immigrants without consequence. These include entering the country illegally, working illegally, driving vehicles without a license or insurance, obtaining ID fraudulently. If one has entered illegally more than once this becomes a felony. Yet our local and State law enforcement have decided to look the other way. Looking the other way when the legal American violates the law? Not gonna happen. This is racism.

- Service providers, using public money and facilities, target Hispanics, legal and illegal, for free goods and services when these very items could benefit people of all races. At these places anybody but a Latino is discouraged from getting the help. In most instances non-Hispanics are not even aware there is help available because these providers market only to the Hispanic. Just take a look at the Mission statements of CHEC and CREER. This is racism.

- School districts, using public money (that's your money and mine), target Hispanics (both legal and illegal) with extra services and programs. Non-Hispanics are excluded from many of these free or low-cost programs. This is racism.

- The Catholic Church, including our own Mission Basilica, provides many benefits directed to the Hispanic Community, both legal and illegal. This is done even to its own detriment. This policy has led to the point where a lot of non-Hispanics now feel disenfranchised, maybe even threatened. A growing number of these people have left the Mission Parish and are dispersing to other nearby churches, including St. Edwards in Dana Point. By openly aiding and abetting illegal immigrants the Catholic Church is flouting our federal laws. They are sending the message that their illegal Hispanic parishioners are above the law. This is racism.

It seems that from an Hispanic perspective any person who calls for any limitation that affects their

MARK NIELSEN: Straight Talk

## What Chevron Won't Tell You



MARK NIELSEN

The recent guest column in The Capistrano Dispatch by Chevron defending their MTBE response may sound reasonable to the uninformed, but it is full of spin and missing information. Once again, they are playing out their strategy of trying to shift blame to the city for their MTBE pollution problem and downplaying the fact that they are responsible for introducing a "poison" into our drinking water supply. After you remove all the smoke and mirrors, we are left with the simple fact that the city has told Chevron we are ready to start the proposed work as soon as Chevron does three simple things:

1. Agree to treat the water coming out of our wells so it is back to no detectable levels of MTBE, which is where our water was before Chevron's spill.
2. Have a treatment plan that the city agrees is workable, does not negatively impact our ability to expand our groundwater recovery plant in the future, is properly landscaped and screened, and does not destroy Descanso Park and our children's play lot nor endanger our children at the pre-kindergarten classes held at the Dance Hall next to City Hall.
3. Reimburses the city and our taxpayers for the out of pocket costs we have incurred (currently over \$3 million) due to the spill and the closing of the Dance Hall well as soon as we detected MTBE in the well water.

Amazingly, Chevron refuses to agree to these extremely reasonable requirements and instead has the gall to spend money on full page ads and numerous lawyers to fight the city. Instead of doing the right thing, Chevron instead is trying to pinch pennies at the expense of our citizens. And this from a company that had record profits in 2008 of almost \$24 Billion!

If Chevron was truly ready to "do the right thing" as their spokesperson states, they would stop all the posturing, acknowledge the deficiencies of their plan, and agree to the three simple requirements stated above so we could start the treatment of our groundwater and begin the removal of the huge MTBE plume that is only now beginning to touch our drinking water well. The levels of MTBE behind the front of the plume that has reached our Dance Hall Well are at least 80 times higher than what is being measured at the well today. If we kept the well pumping, even Chevron's own expert admitted that it would draw more of the plume and higher MTBE concentrations would then be found in the drinking water being pumped out to our plant.

Chevron claims that the little bit of MTBE found in our wells is OK because it is below the State levels of allowable MTBE. While the State has a level of 5 ppb

(parts per billion) where they believe people can taste and smell this gasoline additive, there were studies conducted by the oil industry itself in Europe years ago that showed MTBE levels of under 1 ppb were tasted or smelled by over 60 percent of the study's participants (and the levels found at our well were between 1 and 2 ppb). This study was, for obvious reasons, never publicized by the oil industry until it came out in discovery during a lawsuit against the oil industry for one of the first MTBE spills in South Lake Tahoe. That case was ultimately settled by the oil industry for over \$70 million. And just this past week, a New York jury awarded \$105 million to the City of New York against Exxon for an MTBE spill years ago that contaminated the city's groundwater.

Chevron is correct that the city is standing in the way of them implementing their deficient cleanup plan using one of our city's primary drinking water wells. The Chevron plan calls for an inadequate number of filter vessels that are each over two stories tall (instead of using shorter 12-foot vessels) to be placed in locations that would prohibit the city's ability to expand its groundwater recovery plant in the future. Apparently Chevron's resistance to the shorter vessels is because they already have the taller ones in storage. Also, they are proposing too few filter vessels to allow the city to run the well at its maximum capacity (a requirement that will become even more necessary as the Metropolitan Water District reduces the availability of imported water and increases prices).

They also plan to run 18 wheelers down the small road by the Dance Hall pre-K facility without any ability to safely get them in and out of this very tight space. Anyone who physically went on site with Chevron's plan could see obvious problems.

Finally, the refusal of Chevron to commit to reimburse the citizens of this community for the cost of their polluting our groundwater makes their claim of being ready to "do the right thing" disingenuous at best. It appears that Chevron wants to save a few dollars on a deficient cleanup plan, force the city to go to court to recover the costs our taxpayers have already had to pay for replacement water due to this pollution, and probably spend more on lawyers and PR consultants to delay the ultimate day of reckoning, instead of just paying the city back now for the actual costs we have incurred.

I don't know about you, but maybe Chevron has a different definition of "right" than the rest of us. Maybe my problem is that I define the right thing by what is best for the citizens of San Juan Capistrano, instead of what is best for an incredibly profitable company's shareholders. What do you think?

Businessman Mark Nielsen was elected to the City Council in 2006. Reach him at [MNielsen@thecapistranodispach.com](mailto:MNielsen@thecapistranodispach.com)

people is racist because it is seen as "keeping us down." It doesn't matter that the person expressing this concern might be a reasonable, law-abiding person. It doesn't matter that the expressed concern might be valid. If the expressed concern is perceived as "keeping us down" (such as abiding by American laws) then it must be attacked as being racist.

From a white perspective we don't understand why the race card gets played so much when there are real concerns (concerns that any reasonable person of any race would have, such as safety, legal, financial). American society has changed into a multi-racial society over the decades and it doesn't seem like one race dominates

another any more. What is most troubling to me is that white persons are victimized by racist acts as much as the next race but are the only ones who get the label "racist" or "hate crime" attached.

Reverse racism is alive and well in our city, our state, and our country but we should stop playing the race card game...it is a game where nobody wins.

ROTARY: THANKS FOR RIDGE WALK SUPPORT  
—Larry Kramer, San Juan Capistrano

I would like to thank all of you who supported the Rotary Ridge 10K Run and Walk. I am also very

(Cont. on page 14)

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**CALL TO ORDER:**

8:00 a.m. in the City Council Chambers.

**ROLL CALL:**

COMMISSIONERS PRESENT: Chairman Tom Lytle, Alan Freisleben, and Lee Goode.

COMMISSIONERS ABSENT: Commissioners Dan Merkle and Ray Miller

STAFF PRESENT: John O'Donnell, Utility Director; Eric Bauman, Water Engineering Manager; Joe Mankawich, Associate Engineer; Francie Kennedy, Water Conservation Coordinator; Glenn Garrett, Water Production Supervisor; Tom Johnson, Water Distribution Supervisor; Michelle Perea, Management Analyst; and Christine Casper, Administrative Specialist.

**ORAL COMMUNICATIONS:**

Susan Hinman, Director, Municipal Water District of Orange County (MWDOC) District 7, congratulated San Juan Capistrano for their conservation efforts. Ms. Hinman reported that in the first part of 2009, Metropolitan Water District (MET) will determine whether to implement allocations. She gave an update on the September 19, 2008, Ocean Desalination Project Partners meeting. There is some problem with leaking underground storage tanks in the area, but pumping will begin in May 2009, and is estimated to continue for 2 years. Also mentioned at the meeting was off-shore desalination.

Ms. Hinman reported that Ms. Fran Spivy-Weber, Board Member from the State Water Quality Control Board (SWQCB), toured the South Coast Water District's (SCWD) and San Juan Capistrano's desalter plants and the South Orange County Wastewater Authority (SOCWA) facility. Residing in Redondo Beach, Ms. Spivy-Weber was not well informed how fast desalination was becoming necessary. Ms. Hinman would like representatives in Sacramento to be more informed about desalination and was happy to have Ms. Spivy-Weber tour our local facilities. Ms. Hinman updated the Commission on the School Program schedule.

**PRESENTATIONS:**

Don Martinson, San Juan Basin Authority, John Thornton and Michael Donovan, PSOMAS, gave a presentation titled, "The History of the San Juan Basin Authority."

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**ITEMS RECEIVED TOO LATE TO BE AGENDIZED:** None

**CONSENT CALENDAR:**

**Item No. 1:** Approve Regular Meeting minutes of August 26, 2008.

**Item No. 2:** Approve Joint Meeting Minutes of August 28, 2008.

Commission Action:

***Moved by Commissioner Goode seconded by Commissioner Freisleben, and carried 3-0, to approve Items No. 1 and No. 2.***

**AGENDA ITEMS:**

**Item No. 3:** Consideration of MTBE Update.

Michael Donavon, PSOMAS, presented a status update on both Chevron MTBE locations and the Kinoshita well.

Chevron's access to MW13 and MW14 well clusters has been denied by the current property owners and Chevron is currently working to gain access for sampling. Tom Lytle asked if the City would assist Chevron in gaining access to these wells. John O'Donnell said that staff is meeting before WAC and Council meetings to work on situations such as this. He is also working with the County to get letters out to the property owners.

Natasha Molla, Chevron, gave a presentation and was available to answer questions. In regards to the treatment operation, Ms. Molla stated that Chevron would work with SouthWest Water Company as it may only be a minimal amount of additional work.

Anthony Martinez, Orange County Health Care Agency, (OCHCA) spoke to the Commission about MTBE issues. Mr. Martinez said that he will be sending out letters to the Regional or State Board to assist with the access issues Chevron is having. He expects to see a corrective action plan within a few months after Chevron's investigation is completed. Chevron is in their first phase of the investigation as they have monitoring wells in place but they need to determine the extent of the plume. With regards to TBA, there is an action level of about 12 or 13 parts per billion and TBA is treated in the same manner as MTBE.

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**Item No. 4:** Consideration of Utility Department Status Update for August 2008

Written Communication: Staff report dated September 23, 2008, by John O'Donnell, Utility Director. Staff recommendation: "By motion, Receive and File."

Presentation and Discussion: John O'Donnell, Utilities Director, and staff reviewed the report and were available to answer any questions.

Eric Bauman gave a presentation on The Easterly Wells Project.

Commissioner Freisleben asked if staff would be producing a brochure for the public about landscaping and the types of plants that grow well in San Juan Capistrano. He also asked how one would access information for water conservation rebates. Francie Kennedy informed the Commission that they can find this information at [www.BeWaterWise.com](http://www.BeWaterWise.com).

Commission Action

***Moved Commissioner Goode, seconded by Commissioner Freisleben and carried unanimously, 3-0, to approve Item No. 4.***

**COMMISSION/STAFF REMARKS:**

John O'Donnell commended staff on their hard work, as did Chairman Lytle. A memorandum was passed out to the Commissioners with regards to off-site meetings. John O'Donnell asked that the Commissioners pick meetings to attend and be an alternate as well. Commissioner Goode offered to go to the Water Quality Meetings at the City. Chairman Lytle requested SOCWA meetings and Commissioner Freisleben said he would attend the MWDOC workshop.

Commissioner Goode stated that he went to the September 19, 2008, Ocean Desalination meeting. He informed staff that there will be a project newsletter and would like the Commission to be on the list to receive it.

Chairman Lytle said that he went on a facilities tour with Eric Bauman. John O'Donnell informed the Commission that a tour of the SOCWA facilities would be set up for them.

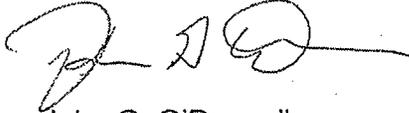
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**ADJOURNMENT:**

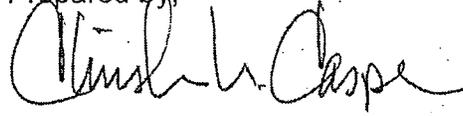
Being that there was no further business to discuss, the Water Advisory Commission adjourned at 10:24 a.m. to the Regular Meeting of Tuesday, October 28, 2008, at 8:00 a.m. in the City Hall Council Chamber.

Respectfully submitted,



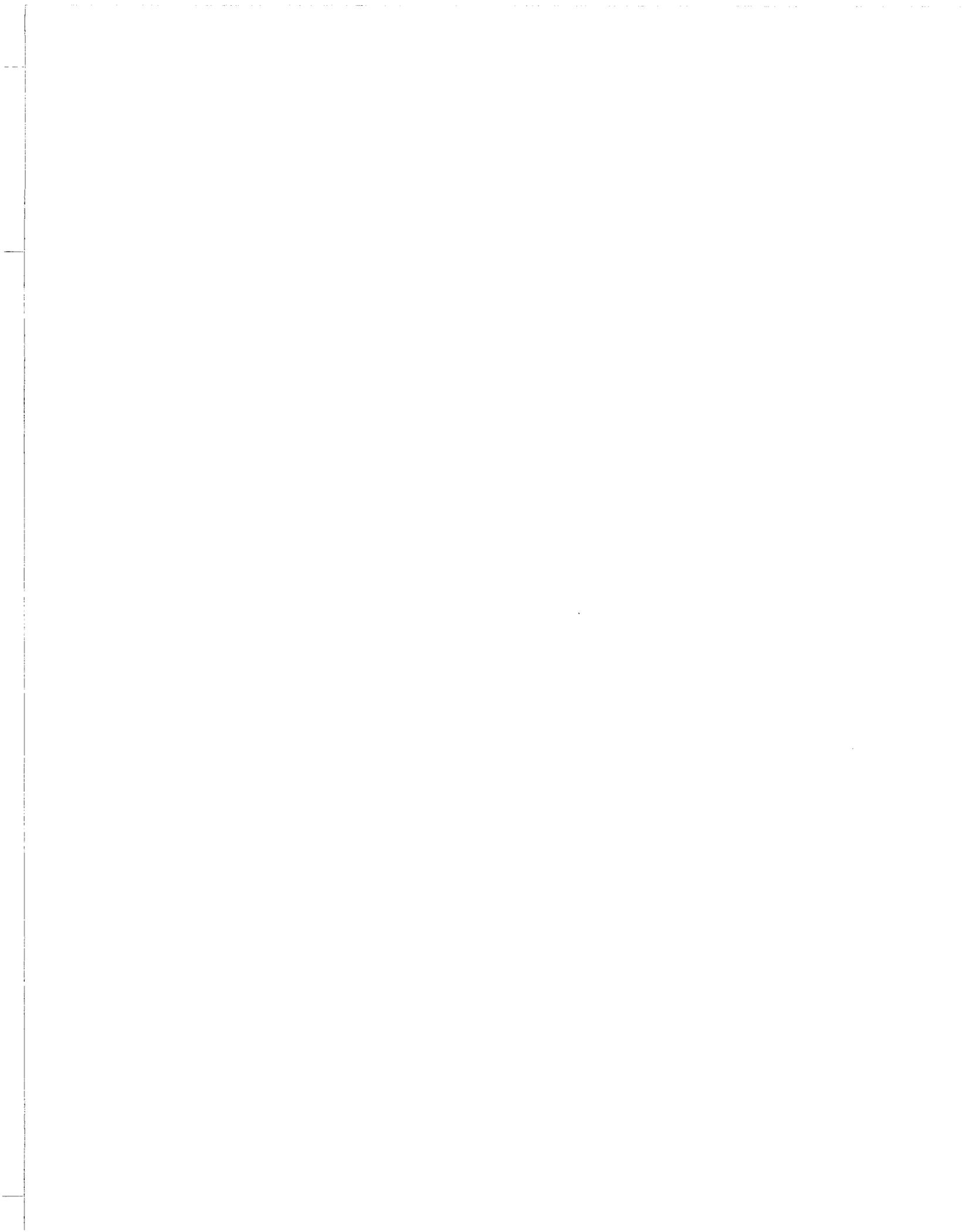
John G. O'Donnell  
Commission Secretary

Prepared by,



Christine M. Casper  
Administrative Specialist

JG/MP:cc



**City of SJC WAC Meeting - Sept. 23, 2008 - Part 1**



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Chairman Lytle: Okay. We'll combine the item number two of the joint meeting minutes of August 28th with --

Male Voice: [Unintelligible] [accepted].

Chairman Lytle: Do I hear a second?

Male Voice: Second.

Chairman Lytle: All in favor?

All: Aye.

Chairman Lytle: The motion passes. Next agenda item would be item number three, Consideration of the MTBE Update. Michael?

Michael Donovan: Just one second. Do I wait?

Chairman Lytle: Looks like that's an important mission there. [Laughs] I think you can go ahead, don't you?

Female Voice: Yeah, [unintelligible].

Michael Donovan: Okay. This is a status update since August 28th with respect to MTBE investigations. As you recall, there are two sites in San Juan Capistrano that have had a release of MTBE. Chevron service station located on the corner of Camino Capistrano and Del Obispo -- this site

has had a number of monitoring wells, which were indicated as green dots that are located away from the Chevron service station. And then the well that has been impacted, the Dance Hall well is located adjacent to the Groundwater Recovery Plant.

Activities that have been ongoing. On August 28th, we gave an update to the City Council and Water Advisory Commission. Chevron has continued to do a rapid small-scale column test as part of the design of the groundwater treatment that is proposed for the Dance Hall well. Chevron also installed transducers at selected wells, because the Groundwater Recovery Plant has been down. They took the opportunity to install transducers in selected wells to monitor when the treatment plant comes up, to monitor the response of the aquifer system from selected wells.

On September 8th, Chevron and the City met with Orange County Flood Control District to commence access, as you might recall. The proposed treatment system for the Dance Hall well is located just outside of the treatment system. In this park area, there's a thing immediately adjacent. That is County land. So in order to get access to build a portion of the treatment system, they have to get permission from the County to build on that property.

So that meeting took place, and the County indicated what particular requirements. It sounded as if what they were going to do is that Chevron would be granted an encroachment permit to be able to construct. So Chevron is putting together documents and so forth to submit to the County in order to obtain that permission.