STATE WATER RESOURCES CONTROL BOARD
OF THE STATE OF CALIFORNIA

In the Matter of the Petition of
UNOCAL CORPORATION
Request for Technical Information Pursuant to Water Code Section 13267 — Revision of Feasibility Study for Gemcor Site, Imperial County
California Regional Water Quality Control Board, Colorado River Basin Region

VERIFIED PETITION FOR REVIEW AND REQUEST FOR HEARING AND REQUEST THAT PETITION BE PLACED IN ABYANCE

In accordance with section 13320 of the California Water Code and section 23 Cal. Code Regs., § 2050, et seq., UNOCAL CORPORATION ("Petitioner" or "Unocal"), by and through Chevron Environmental Management Company ("CEMC"), hereby timely files this Verified Petition for Review and Request for Hearing, alleging as follows:

1. Petitioner’s mailing address is 6001 Bollinger Canyon Road, San Ramon, California 94583.

2. Petitioner seeks review of a Request for Technical Information issued by the California Regional Water Quality Control Board for the
Colorado River Basin ("Water Board") pursuant to Water Code section 13267 ("13267 Letter"), in respect of the former GEMCOR Site located in Calipatria, Imperial County, California. A copy of the 13267 Letter is attached as Exhibit 1.

3. The 13267 Letter was issued by the Water Board on April 30, 2010.

4. Unocal is identified as the discharger on Cleanup and Abatement Order No. R7-2002-0207, as revised by Order No. R7-2009-0025 ("CAO"), for the GEMCOR Site. Unocal is now a wholly owned subsidiary of Chevron Corporation. Through an internal company service agreement, CEMC (also a wholly owned subsidiary of Chevron Corporation) is authorized to act on behalf of Unocal in connection with the GEMCOR Site. Unocal does not contest its responsibility under the CAO.

Petitioner's principal objection to the 13267 Letter is that it unlawfully, prematurely and inappropriately mandates the selection of a particular "preferred alternative" in a Feasibility Study that Unocal is required to submit to the Water Board by June 15, 2010, in accordance with the CAO and the 13267 Letter. The GEMCOR site is a former geothermal waste processing and disposal facility that was owned and operated by Unocal and by at least two other unrelated entities prior to Unocal's acquisition of the site. From the late 1960's to the late 1970's (prior to Unocal's ownership), geothermal brines were managed in unlined evaporation ponds that covered approximately 65 acres of the 80-acre site. Based on all available evidence, the primary source of the contamination that is the focus of the Feasibility Study is believed to be leakage from these unlined ponds that occurred prior to the effective date of the State Board regulations relating to discharges of waste to land and to regulations
applicable to the treatment, storage and disposal of hazardous wastes. Various other processing and disposal activities occurred at the site over time but were regulated by Waste Discharge Requirements ("WDRs") and are not believed to have contributed significantly to current site conditions. Significant closure and cleanup operations have already occurred at the site, including closure of new lined impoundments that were built in the 1980's in the same locations formerly occupied by some of the unlined ponds.

Petitioner asserts that the Regional Board abused its discretion or acted arbitrarily, capriciously and in violation of law in mandating the "preferred alternative" for the site before the Feasibility Study has even been completed. The purpose of a Feasibility Study is to evaluate the entire range of potential remedial alternatives and to rank each alternative according to a set of defined criteria. The preferred alternative cannot be identified until after this analysis has been completed. The Water Board's designation of a "preferred alternative" at this time constitutes an abuse of discretion, is based on a misapplication and usurpation of applicable laws and regulations, and threatens to foreclose consideration, and possible implementation, of other appropriate remedies at the site. The Water Board's preferred remedy would require removal of a very large volume of contaminated soil that has been shown not to pose a significant threat to groundwater or to human health and that resulted from historical leakage of brines that occurred in the 1960's and 1970's. To the best of Unocal's and CEMC's knowledge, the contamination at issue did not result from violations of applicable WDRs.

5. Petitioner is aggrieved because it could be forced to implement a remedy at the site that is economically infeasible, as that term is used in State Board Resolution No. 92-49 (Policies and Procedures for Investigation
and Cleanup and Abatement of Discharges under Water Code Section 13304), and that is otherwise unwarranted from the standpoint of protecting human health and the environment. Unocal estimates that the Water Board’s "preferred alternative" would cost at least six times more than the remedy Unocal and its expert consultants believe is appropriate for the site, based on their evaluations to date, surrounding land uses and the availability of institutional controls for the site. If Unocal were to refuse to implement the Water Board’s preferred remedy, it could face imposition of significant administrative, or possibly, judicial civil penalties. Petitioner is further aggrieved because the Water Board’s purported justification for its action is incorrect as a matter of law and lacks a substantial factual basis.

6. Petitioner is filing this petition in order to preserve it right to seek review of the Water Board’s action, but requests that it be placed in abeyance pending further developments. To the extent reasonable, Unocal intends to complete and timely submit the Feasibility Study in accordance with guidance provided by Water Board staff. If the Feasibility Study is approved, and the dispute over remedy selection is resolved, Petitioner will dismiss its Petition. If the Water Board disapproves the Feasibility Study and requires implementation of a remedy that is considered by Unocal to be economically infeasible or otherwise unwarranted from the standpoint of protecting human health and the environment, Petitioner will activate the Petition. At that time, Petitioner will amend this Petition to include a more detailed description of the facts and the manner in which Petitioner is aggrieved by the Water Board’s action, and a memorandum of points and authorities in support of the requested relief.
7. A copy of this Petition is being sent by first-class mail to the Water Board, on May 28, 2010, to the attention of Mr. Jose Angel, Assistant Executive Officer.

8. The 13267 Letter was issued by the Assistant Executive Officer of the Water Board without a prior hearing, as is allowed by law. Accordingly, Petitioner had no formal opportunity to raise its objections to the 13267 Letter prior to its issuance. Petitioner has made numerous attempts to resolve this dispute informally with staff, and has made its objections known to staff.

9. Petitioner reserves the right to request a hearing in this matter and to request an opportunity to present additional evidence that might later come to light.

Request for Relief

Petitioner will frame the specific relief it is seeking from the State Board when and if this Petition is activated. For present purposes, Petitioner requests the following relief:

A. That the State Board find the 13267 Letter, as issued, is unlawful, arbitrary and capricious and therefore invalid; and

D. Such other relief as the State Board may deem just and proper.


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By Margaret Rosegay

Attorneys for Petitioner
UNOCAL CORPORATION
VERIFICATION

I, Kim Jolitz, am employed by Chevron Environmental Management Company and am the Project Manager for the GEMCOR site, and am authorized to act on behalf of Unocal. In this capacity, I am familiar with the relevant aspects of the site and am the person primarily responsible for overseeing completion of the site remediation. I have read the foregoing Verified Petition for Review and Request for Hearing and believe that the statements therein are true and correct. If called as a witness to testify with respect to the matters stated therein, I could and would competently do so under oath.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this verification was executed in San Ramon, CA on May 28, 2010.
CERTIFIED MAIL: 7003 1010 0004 9647 7287

April 30, 2010

Kim Jolitz
Project Manager
Unocal GEMCOR Site
Chevron Environmental Management Company
6001 Bollinger Canyon Road
San Ramon, CA 94583

Dear Ms. Jolitz:

SUBJECT: MODIFICATION AND TIME EXTENSION OF REQUEST FOR TECHNICAL INFORMATION PURSUANT TO SECTION 13267 OF THE CALIFORNIA WATER CODE – REVISION OF FEASIBILITY STUDY REQUIRED BY CLEANUP AND ABATEMENT ORDER R7-2009-0025 REVISION 1 FOR GEMCOR SITE, UNOCAL CORPORATION, IMPERIAL COUNTY

This order for technical information for Unocal GEMCOR is to modify the request for technical information dated March 8, 2010, and to provide a time extension for submittal of a revised Feasibility Study required by the March 8, 2010 order and by Cleanup and Abatement Order R7-2009-0025 Revision 1 pursuant to Section 13267 of the California Water Code. The revised Feasibility Study must be submitted to the Regional Board by June 15, 2010.

The revised Feasibility Study shall be prepared under the direct supervision of and signed by a California registered civil engineer or engineering geologist experienced in hydrogeologic investigations. The revision must, at a minimum, include:

1. Preferred alternative for remediation of Lead and Arsenic soil values greater than the Total Threshold Limit Concentration (TTLC) pursuant to Section 66699, Title 22 of the California Code of Regulations (CCR).

2. Discussion and preferred alternative for remediation of Lead and Arsenic soils greater than Soluble Threshold Limit Concentration (STLC) values pursuant to Section 66699, Title 22, CCR.

3. Revision of the Site Conceptual Model and Executive Summary accordingly.
Pursuant to State Water Resources Control Board Resolution 92-49, Policies and Procedures for Investigation and Cleanup and Abatement of Discharges Under Water Code Section 13304, cleanup goals for Lead and Arsenic will be background concentrations or to the levels technically and economically feasible.

The Regional Board's request for the revised Feasibility Study is made pursuant to Section 13267 of the California Water Code. Pursuant to Section 13268 of the Water Code, a violation of a request made pursuant to Water Code Section 13267 may subject Unocal GEMCOR to civil liability of up to $1,000 per day for each day in which the violation occurs.

The Regional Board needs the required information in order to determine the extent of the contamination at the GEMCOR site, and to establish appropriate cleanup levels. Unocal GEMCOR is required to submit this information because Unocal is the owner/operator responsible for the discharge(s). More detailed information is available in the Regional Board's public file on this matter.

Any person affected by this action of the Regional Board may petition the State Water Resources Control Board (State Board) to review the action in accordance with Section 13320 of the California Water Code and Title 23, California Code of Regulations, Section 2050. The petition must be received by the State Board, Office of the Chief Counsel, P.O. Box 100, Sacramento, CA, 95812 within 30 days of the date of this request. Copies of the law and regulations applicable to filing petitions will be provided upon request.

If you have any questions regarding this matter, please contact Liann Chavez at (760) 776-8945 or Jose Angel at (760) 776-8932.

Sincerely,

Jose Angel
Assistant Executive Officer
Colorado River Basin
Regional Water Quality Control Board

LC/tab

File: WDID No. 7A 13 2050 000, Unocal Corporation, Board Order No. 89-005

California Environmental Protection Agency

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