

1 John Epperson (State Bar No. 183347)  
COOPER, WHITE & COOPER LLP  
2 201 California Street, 17<sup>th</sup> Floor  
San Francisco, CA 94111  
3 Telephone: (415) 433-1900  
Facsimile: (415) 433-5330  
4 Email address: jepperson@cwclaw.com

5 Attorneys for  
The Pratt Company  
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8 STATE OF CALIFORNIA  
9 STATE WATER RESOURCES CONTROL BOARD  
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11 In re: ) No.  
12 ) **PETITION FOR REVIEW**  
13 )  
14 WATER CODE SECTION 13267 LETTER )  
15 DATED OCTOBER 13, 2015; SCOTTS )  
16 VALLEY DRY CLEANERS; REQUIREMENT )  
FOR A DEEP GROUNDWATER )  
MONITORING WELL AND REFERRAL OF )  
INDOOR AIR RISK EVALUATION )

17 Pursuant to Section 13320 of the California Water Code and Section 2050 of Title  
18 23 of the California Code of Regulations, Petitioner The Pratt Company ("Pratt" or "Petitioner")  
19 submits this Petition for Review of a Water Code Section 13267 letter dated October 13, 2015 and  
20 entitled "Scotts Valley Dry Cleaners" and "Requirement for a Deep Groundwater Monitoring Well  
21 and Referral of Indoor Air Risk Evaluation" ("13267 Letter") issued by the Executive Officer of  
22 the Regional Water Quality Control Board, Central Coast Region, ("Regional Board"). The 13267  
23 Letter imposes requirements regarding the Scotts Valley Dry Cleaners site at 272-A Mount  
24 Hermon Road, Scotts Valley, California ("Site").  
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26 Pratt is submitting this Petition for Review as a protective filing to satisfy the  
27 statutory deadlines for filing. Pratt requests that this Petition be held in abeyance by the State  
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1 Water Resources Control Board as Pratt continues to work with the Regional Board to resolve  
2 their differences. Petitioner will submit an amended Petition, with a request for hearing and  
3 request for stay, in the future if it becomes necessary to take this Petition up in earnest.

4           Petitioner provides the following information in support of its Petition as required  
5 by Section 2050 of Title 23 of the California Code of Regulations:  
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7           1.     Petitioner is The Pratt Company and its address is 591 Redwood Highway,  
8 Suite 2150, Mill Valley, CA, 94941. Petitioner requests that all communications regarding this  
9 petition for review be directed through its counsel, as identified in the caption of this Petition.

10           2.     Petitioner requests that the State Board review the requirements of the  
11 13267 Letter adopted by the Regional Board on October 13, 2015. A copy of the 13267 Letter is  
12 attached as Exhibit A to this Petition.

13           3.     The 13267 Letter was issued under the approval of the Regional Board's  
14 Executive Director, without a hearing by the Regional Board.  
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16           4.     Petitioner believes that the requirements of the 1327 Letter are inappropriate  
17 or improper for the following reasons:

18                   (a)     Under Water Code Section 13267(b)(1), the burden, including costs,  
19 of the reports being required “shall bear a reasonable relationship to the need for the report and the  
20 benefits to be obtained from the reports.” The deep groundwater monitoring well being required  
21 will be an expensive undertaking, as the 13267 Letter acknowledges. Due to the numerous other  
22 wells already in place in the vicinity, including wells associated with the Watkins-Johnson  
23 Superfund site, the benefits to be obtained from the required well are minimal, and do not have a  
24 reasonable relationship to the cost to construct the monitoring well. The Watkins-Johnson wells  
25 are currently monitored quarterly. The 1327 Letter does not adequately identify the suspected  
26 ‘data gap’ or how the required deep well is pertinent thereto.  
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The administrative record shows that subsurface in the location the Regional Board requires the monitoring well to be installed is fractured bedrock, which adds to the difficulty and cost of undertaking the actions required in the 1327 Letter. The Letter also recommends that the deep well be finished for subsequent use as a groundwater extraction well. Groundwater extraction is not generally effective in fractured bedrock. The extraction well is not necessary since the subsurface PCE off-site is already contained by a groundwater extraction system at the nearby Watkins Johnson site. There is also not a data gap as to the depth and extent of the subsurface PCE, which is being monitored quarterly by the Watkins Johnson ground water wells, where it has been detected since at least 1997.

(b) Water Code Section 13360 prohibits orders of a regional board from specifying the design, location, type of construction, or particular manner in which compliance may be had with that requirement and the person so ordered shall be permitted to comply with the order in any lawful manner. The 13267 Letter impermissibly directs the manner and means by which the Regional Water Quality Control Board’s objectives are to be satisfied.

Recent efforts by Petitioner have resulted in substantial PCE reduction and removal in the suspected source area at the Site. These recent efforts have included terminating measures that were not effective, including a former groundwater extraction system, and focusing on Petitioner-initiated proposals to expand the soil vapor extraction and air sparge systems. Any funds Petitioner must expend for a deep well will not be available for those source area contaminant removal efforts. The 13267 Letter should not proscribe specific and costly measures with limited benefits, to the detriment of Site source reduction.

(c) The 13267 Letter acknowledges that it is the lead oversight agency, but defers to the Santa Cruz County Environmental Health Department (“SCCEHD”) to provide oversight for the evaluation of soil gas concentrations and the soil gas to indoor air exposure

1 pathway (vapor intrusion). The 13267 Letter cites no authority for such a deferral, nor is there any  
2 explanation of SCCEHD's qualifications or an explanation of why such an evaluation is  
3 considered necessary, such as a reference to exceedances of screening levels.

4 5. Petitioner is aggrieved because the requirements of the 13267 Letter will  
5 result in unnecessary burden and expense to Petitioner.

6 6. Petitioner requests that the State Board set aside the 13267 Letter provisions  
7 or direct the Regional Board to set them aside.

8 7. Petitioner is submitting this Petitioner for Review as a protective filing to  
9 comply with the statutory deadlines for such petitions. Petitioner intends to try to work with the  
10 Regional Board staff in an effort to resolve the disputes regarding these requirements. In the event  
11 that those disputes are not resolved, Petitioner will submit as an amendment to this Petition a  
12 complete statement of points and authorities in support of the legal issues raised in this Petition,  
13 together with a request for stay and request for hearing.

14 8. A copy of this Petition is being sent to the Regional Board and the other  
15 named dischargers in the 13267 Letter.

16 9. Petitioner's representatives have met repeatedly with Regional Board staff  
17 and discussed these issues, as noted in the 13267 Letter.

18 DATED: November 4, 2015

19 Respectfully submitted,

20 Cooper, White & Cooper LLP

21 By: 

22 John R. Epperson

23 Attorneys for  
24 The Pratt Company

# EXHIBIT A



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**Central Coast Regional Water Quality Control Board**

October 13, 2015

The Pratt Company  
c/o Mr. Michael Fogelman  
591 Redwood Hwy, Suite 2150  
Mill Valley, CA 94941  
Email: [mfogelman@prattcompany.com](mailto:mfogelman@prattcompany.com)  
**Certified Mail 7015 0640 0001 9863 5827**

S&A Ito Family Partnership  
c/o Agent for Service of Process  
Shuichi Ito  
267 S. San Pedro Street Unit 619  
Los Angeles, CA 90012  
**Certified Mail 7015 0640 0001 9863 5834**

Mr. Yung Ae and Ms. Jun Il Ku  
119 Treetop Drive  
Santa Cruz, CA 95060-1312  
**Certified Mail 7015 0640 0001 9863 5810**

Il Lae and Eun Ok Cho  
635 14<sup>th</sup> Avenue  
Menlo Park, CA 94025-1907  
**Certified Mail 7015 0640 0001 9863 5803**

Mr. Sei Wook and Ms. Soon Hee Yum  
6570 Dartmoor Way  
San Jose, CA 95129-3816  
**Certified Mail 7015 0640 0001 9863 5797**

Dear Responsible Parties:

**SITE CLEANUP PROGRAM: SCOTTS VALLEY DRY CLEANERS, 272-A MOUNT HERMON ROAD, SCOTTS VALLEY, SANTA CRUZ COUNTY – REQUIREMENT FOR A DEEP GROUNDWATER MONITORING WELL AND REFERRAL OF INDOOR AIR RISK EVALUATION**

Central Coast Regional Water Quality Control Board (Water Board) staff requires the responsible parties<sup>1</sup> to provide information to address data gaps in groundwater and to evaluate the potential risk of vapor intrusion. First, Water Board staff requires the responsible parties to install a well within the deeper groundwater zone near the perchloroethylene (PCE) source area at the Scotts Valley Dry Cleaner site to determine the vertical extent of PCE and similarly associated halogenated volatile organic compounds (HVOCs) that have migrated downgradient of the site. The vertical delineation of the PCE under the shallow and intermediate groundwater zones within the Santa Margarita formation remains a primary data gap that the responsible parties must address. Additionally, this well will provide Water Board staff with the necessary information to monitor PCE concentration trends in order to evaluate the need for hydraulic control of the PCE to protect Scotts Valley's drinking water resources.

Another remaining data gap for this cleanup case is to determine if there are any vapor intrusion concerns into overlying buildings from HVOCs remaining in soil and groundwater beneath the

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<sup>1</sup> The Pratt Company, one of the responsible parties (RP), is the only RP that has consistently funded the investigation, monitoring, and cleanup actions at the Scotts Valley Dry Cleaners. However, the parties named in Cleanup and Abatement Order No. R3-2005-0081 are jointly and severally liable.

Scotts Valley Dry Cleaners area. Potential inhalation risk for indoor air within the building(s) proximal to the PCE source area is an aspect of the cleanup project that Water Board staff deems necessary to evaluate due to the concentrations of HVOCs historically detected in soil and groundwater immediately adjacent to the building where the dry cleaner operates. For cleanup cases in Santa Cruz County, the Santa Cruz County Environmental Health Department (County) typically takes the lead on indoor air evaluations. Therefore, Water Board staff referred the evaluation of potential risk to indoor air to the County.

### **Deep Groundwater Well Requirement**

Water Board staff discussed their concerns regarding the unknown nature and extent of PCE within the deeper portion of the Santa Margarita formation above the contact with the underlying Monterey formation with representatives of the Pratt Company during meetings and telephone discussions throughout 2014 and early 2015 after our review of the results included in the Well Investigation Report by ARCADIS for the Watkins-Johnson Superfund Site.<sup>2</sup> Water Board staff have discussed the need for vertical delineation in detail with Ms. Lynda Brothers (legal counsel and representative for the Pratt Company) and the Pratt Company's consultant Mr. Robert Giattino on February 23, 2015. Water Board staff also initiated multiple discussions with many stakeholders to explore opportunities among public and private interests in developing a coordinated and expedited effort toward addressing the threat of PCE to the users of the Scotts Valley groundwater basin. During the most recent stakeholder meeting on May 11, 2015 held at the Water Board's office, Water Board staff reiterated to Ms. Lynda Brothers that there is a need for vertical delineation of the PCE pollution within the Scotts Valley groundwater basin. Toward this effort, during the May 11, 2015 meeting with Water Board staff and consultants representing the Watkins-Johnson Superfund Site project (among other stakeholders), Water Board staff presented to Ms. Lynda Brothers a list of deep monitoring wells (KV wells), along with rationale for their selection, to support the need for monitoring the status of PCE detected in the lower portion of the Santa Margarita groundwater zone that has migrated offsite from the Scotts Valley Dry Cleaners. Water Board staff indicated the need for a deep well nearer to the Scotts Valley Dry Cleaners to provide a more complete groundwater monitoring network of the deep zone. The Scotts Valley groundwater basin is the sole source water supply for Scotts Valley with actively used municipal and private water supply wells throughout the basin. The continued migration of PCE from the dry cleaners is a threat to this water supply and poses potential increased costs to users for well-head treatment should these wells become impacted.

Current information from numerous investigations and data from on-going groundwater monitoring at the Scotts Valley Dry Cleaners site and Watkins-Johnson Superfund Site provide strong indications that PCE has migrated from the dry cleaners to the Superfund Site within the deeper groundwater zone of the Santa Margarita formation. For example, recent influent data for the Superfund Site groundwater extraction and treatment system, TS-IN, shows increasing concentrations of PCE relative to declining and stable concentrations of trichloroethene (TCE), the primary pollutant associated with the Superfund cleanup.<sup>3, 4</sup> Elevated PCE concentrations

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<sup>2</sup> February 13, 2014 Well Installation Report:

[http://geotracker.waterboards.ca.gov/esi/uploads/geo\\_report/6718253433/SLT3S5581367.PDF](http://geotracker.waterboards.ca.gov/esi/uploads/geo_report/6718253433/SLT3S5581367.PDF)

<sup>3</sup> PCE time concentration plot:

[https://geotracker.waterboards.ca.gov/linechartxy.asp?global\\_id=SLT3S5581367&locid=TS-IN&parlabel=PCE&mymatrix=&combine=False](https://geotracker.waterboards.ca.gov/linechartxy.asp?global_id=SLT3S5581367&locid=TS-IN&parlabel=PCE&mymatrix=&combine=False)

<sup>4</sup> TCE time concentration plot:

[https://geotracker.waterboards.ca.gov/linechartxy.asp?global\\_id=SLT3S5581367&locid=TS-IN&parlabel=TCE&mymatrix=&combine=False](https://geotracker.waterboards.ca.gov/linechartxy.asp?global_id=SLT3S5581367&locid=TS-IN&parlabel=TCE&mymatrix=&combine=False)

were also detected between the two sites in the "KV" series wells installed as part of the Watkins-Johnson Superfund Site cleanup project.

Water Board staff acknowledges the Pratt Company's long history of implementing and funding soil and groundwater cleanup and the recent efforts toward expansion and optimization of their soil vapor extraction system. We also understand that the Pratt Company has to collect additional groundwater data to assess the effects of the more recent remedial efforts on water quality in the shallow and intermediate aquifer zones beneath the site. Water Board staff understands that these efforts have been solely funded by the Pratt Company even though other responsible parties are associated with this cleanup site. Water Board staff requires the responsible parties to delineate the current vertical extent of PCE and HVOCs in groundwater to evaluate the effects of the recent remedial efforts by the Pratt Company within the deeper portions of the Santa Margarita formation. Based on the available information and without additional deeper groundwater zone data, Water Board staff must assume that PCE is continuing to migrate downgradient of the dry cleaner site at elevated concentrations and that this poses a significant threat to Scotts Valley's drinking water resource. Collecting deeper groundwater quality data is therefore required to understand and develop the scope of work necessary to protect the Scotts Valley drinking water resource from this discharge.

Water Board staff requires the responsible parties to submit a workplan proposing a scope of work and schedule for the vertical delineation of PCE in the deeper groundwater zone in close proximity to the Scotts Valley Dry Cleaner source area not later than **November 30, 2015**. We are available for a technical meeting with your consultants to discuss the preliminary proposed scope of work, well location, and schedule. Additionally, due to the expense of this well, we encourage you to consider designing the monitoring well so it may act as an extraction well in the future if the results suggest that hydraulic control will be necessary to protect drinking water resources and/or to clean up the PCE plume in a reasonable timeframe. Additionally, we encourage you to take advantage of some recent legislative changes that created the Site Cleanup Subaccount Program (SCAP). SCAP is a new funding program established by SB 445 (Hill, 2014) allowing the State Water Board to issue grants for projects that remediate the harm or threat of harm to human health, safety, or the environment caused by existing or threatened surface or groundwater contamination. To apply, you must apply online through the Financial Assistance Application Submittal Tool (FAAST) at <https://faast.waterboards.ca.gov>. For additional information please see the attached factsheet.

### **Indoor Air Risk Assessment**

Lastly, regarding assessment of indoor air risk, although the Water Board is the lead oversight agency for the Scotts Valley Dry Cleaners case, Water Board staff are deferring to Santa Cruz County Environmental Health Department to provide lead oversight for the evaluation of soil gas conditions and the soil gas to indoor air exposure pathway. As explained above, the concentrations of HVOCs in soil and groundwater indicate potential for vapor intrusion into building structures immediately adjacent to, and over, source areas.

### **Legal Requirements**

The Water Board's requirement that the responsible parties submit the workplan is made pursuant to Section 13267 of the California Water Code. Pursuant to Section 13268 of the Water Code, a violation of Water Code Section 13267 requirement may subject you to civil liability of up to \$1,000 per day for each day in which the violation occurs.

The Water Board needs the required information in order to delineate the vertical extent of PCE and associated HVOCs in the deeper groundwater zone beneath the dry cleaner. You are



required to submit this information because the continued migration of PCE from the dry cleaners is a threat to the Scotts Valley groundwater water supply and based on the available data you are responsible for the discharge. You are the current or past property owner or sublessees of the property where previous operators at the facility caused a discharge of waste during their conducting dry cleaning operations or you are the past operator of the dry cleaning operation that caused the discharge. The evidence supporting this requirement is included in the documents and reports referenced within this letter. More detailed information is available in the Water Board's public file on this matter and on GeoTracker. Any person affected by this action of the Water Board may petition the State Water Resources Control Board (State Water 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 Chief Counsel, P. O. Box 100 Sacramento, 95812 within 30 days of the date of this order. Copies of the law and regulations applicable to filing petitions will be provided upon request.

If you have any questions, please contact **Dan Niles by telephone at 805-549-3355 or email at [dan.niles@waterboards.ca.gov](mailto:dan.niles@waterboards.ca.gov)**, or Thea Tryon at 805-542-4776.

Sincerely,

**John M. Robertson**



Digitally signed by John M. Robertson  
DN: cn=John M. Robertson, o=State Water Board/Cal EPA,  
ou=Central Coast Regional Water Quality Control Board,  
email=john.robertson@waterboards.ca.gov, c=US  
Date: 2015.10.13 13:16:40 -07'00'

for Kenneth A. Harris Jr.  
Executive Officer

Attachment: SCAP Factsheet

cc via email:

Ms. Lynda Brothers  
Attorney at Law  
Consultant to: The Pratt Company  
[lbrothers@brotherslaw.com](mailto:lbrothers@brotherslaw.com)

Mr. Russell Pratt  
[rpratt@prattcompany.com](mailto:rpratt@prattcompany.com)  
The Pratt Company  
591 Redwood Hwy, Suite 2150  
Mill Valley, CA 94941

Mr. Scott Carson  
Professional Geologist  
Santa Cruz County Environmental Health  
Services  
[scott.carson@santacruzcounty.us](mailto:scott.carson@santacruzcounty.us)

Ms. Davila Brunilda  
Remedial Project Manager  
Watkins-Johnson Superfund Site  
United States Environmental Protection  
Agency  
[davila.brunilda@epa.gov](mailto:davila.brunilda@epa.gov)

Ms. Piret Harmon  
General Manager  
Scotts Valley Water District  
[pharmon@svwd.org](mailto:pharmon@svwd.org)

Mr. William O'Brien  
Assistant General Manager  
Operations Manager  
Scotts Valley Water District  
[wobrien@svwd.org](mailto:wobrien@svwd.org)

Mr. David McNair  
Operations Manager  
Scotts Valley Water District  
[dmcnair@svwd.org](mailto:dmcnair@svwd.org)

Mr. Steve Ando  
City Manager  
City of Scotts Valley  
[sando@scottsvalley.org](mailto:sando@scottsvalley.org)

Mr. Corrie Kates  
Community Development Director/  
Deputy City Manager  
City of Scotts Valley  
[ckates@scottsvalley.org](mailto:ckates@scottsvalley.org)

Mr. Rick Rogers  
Acting District Manager  
San Lorenzo Valley Water District  
[rrogers@slvwd.com](mailto:rrogers@slvwd.com)

Mr. Pat Hoban  
Senior Geologist  
Weber, Hayes and Associates  
[pat@weber-hayes.com](mailto:pat@weber-hayes.com)

Mr. Nicholas M. Johnson  
Principal Hydrogeologist  
MWH  
Consultant to the San Lorenzo Valley Water  
District  
[nicholas.m.johnson@mwhglobal.com](mailto:nicholas.m.johnson@mwhglobal.com)

Mr. Trevor Macenski  
Director, Environmental Services  
FirstCarbon Solutions  
[tmacenski@brandman.com](mailto:tmacenski@brandman.com)

Mr. Jeff Major  
President  
Major Development Company  
[jeffmajor@yahoo.com](mailto:jeffmajor@yahoo.com)

Mr. Joe Appenrodt  
Broker  
Appenrodt Commercial Properties  
[joe@appenrodtcommercial.com](mailto:joe@appenrodtcommercial.com)

Mr. Thomas Fitzpatrick  
Development Manager  
Property Development Centers  
[thomas.fitzpatrick@pdcenters.com](mailto:thomas.fitzpatrick@pdcenters.com)

Mr. Mike Maley  
Senior Hydrogeologist  
Kennedy/Jenks Consultants  
Consultant to the Scotts Valley Water  
District  
[mikemaley@kennedyjenks.com](mailto:mikemaley@kennedyjenks.com)

Ms. Sarah Zerga  
Water Board - GeoTracker File  
[sarah.zerga@waterboards.ca.gov](mailto:sarah.zerga@waterboards.ca.gov)

cc via mail:

Ms. Sandy Woodruff  
Valley Gardens Golf Course  
263 Mount Hermon Road  
Scotts Valley, CA 95066

Mr. Ramsey Taufek H. Trust  
662 Mount Hermon Road  
Scotts Valley, CA 95066