

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD  
**ORDER WQ 2008-0004**

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In the Matter of the Petition of the  
RIALTO-AREA PERCHLORATE CONTAMINATION  
**SWRCB/OCC FILE A-1824**

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BY THE BOARD:

Since 2002, the Santa Ana Regional Water Quality Control Board (Santa Ana Water Board) has been conducting an investigation of groundwater contamination in the area of the City of Rialto. A focus of the investigation has been facilities located on a 160-acre site in Rialto. The Santa Ana Water Board Executive Officer issued a Cleanup and Abatement Order (CAO) for the site on February 8, 2005.

The 2005 CAO and proposed amendments are the subject of challenges in petitions for State Water Board review, some of which were recently activated by various entities named by the Santa Ana Water Board as responsible parties. In light of the various objections and appeals, and the need to take action in an expeditious manner, the State Water Board, acting through its Executive Director, decided to review this matter on its own motion. The Acting Executive Director of the State Water Board, by letter dated February 5, 2007,<sup>1</sup> informed all parties that the State Water Board would hold a hearing on this matter at the earliest possible date. It is in the best interest of all participants and the public who reside in the Rialto area that the hearings pertaining to this matter proceed in a fair, expeditious, and cost-effective manner.

Review by the State Water Board on its own motion is authorized by Water Code section 13320, subdivision (a). The authority to initiate own motion review is not a power the State Water Board reserved to itself, and may be exercised by the Executive Director pursuant to the board's general delegation. ([State Water Board Res. No. 2002-0104](#).) It is the position of

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<sup>1</sup> The Acting Executive Director at that time was Tom Howard. Subsequent to February 5, 2007, the board selected Dorothy Rice as Executive Director, and Mr. Howard returned to the position of Chief Deputy Director.

the State Water Board that no formal vote is required to authorize initiating own motion review. Nonetheless, in an abundance of caution and to avoid further litigation and uncertainty, the State Water Board is adopting this order prior to the evidentiary hearing.

The State Water Board ratifies the Acting Executive Director's February 5, 2007, decision to initiate own motion review and the selection of a hearing officer. The effective date for initiating own motion review is February 5, 2007.

The administrative record to date for SWRCB/OCC File No. A-1824 consists of the following items generated or received by the State Water Board since February 5, 2007: all notices, rulings, disclosures, and transcripts of conferences, along with the parties' and interested persons' submissions in conformance with hearing notices, as well as parties' objections and motions that are part of SWRCB/OCC File No. A-1824. No further materials shall be accepted, except in accordance with further orders of the hearing officer or the board.<sup>2</sup>

In ratifying the February 5, 2007, initiation of own motion review, the State Water Board is not evaluating or endorsing rulings made to date by the hearing officer in SWRCB/OCC File No. A-1824. Likewise, the State Water Board is not ruling on any motions filed by the parties—either directly with the hearing officer or as part of the consideration of this order. Appropriately filed motions are to be considered during the adjudicative proceeding. The full State Water Board's consideration of legal and factual issues will occur after the evidentiary hearing, as contemplated by Water Code section 183. During such consideration, the State Water Board may make findings and take actions contemplated by Water Code section 13320, subdivision (c).

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<sup>2</sup> On April 24, 2008, a draft order ratifying own motion review was circulated to the public. The cover letter stated that comments, both written and oral, must be based solely upon evidence already contained in the administrative record, that supplemental evidence would not be permitted, and that written comments could not include any attachments. Some of the comment letters included attachments, including some documents that were not already in the record. All attachments to written comments have been excluded from the administrative record.

**ORDER**

IT IS HEREBY ORDERED that the State Water Board will review actions and inactions of the Santa Ana Water Board pertaining to groundwater contamination in the area of the City of Rialto on its own motion. The scope of this review is the 160-acre site in Rialto, California and as further described in hearing notices issued for SWRCB/OCC File No. A-1824. The effective date of this own motion review is February 5, 2007.

IT IS FURTHER ORDERED that this order ratifying own motion review is interim in nature and that no final action of the State Water Board will occur until after an evidentiary hearing and until after consideration of a draft order by the full State Water Board in conformance with Water Code section 183.

**CERTIFICATION**

The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on June 3, 2008.

AYE: Chair Tam M. Doduc  
Vice Chair Gary Wolff, P.E., Ph.D  
Charles R. Hoppin  
Frances Spivy-Weber

NAY: None

ABSENT: Arthur G. Baggett, Jr.

ABSTAIN: None

  
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Jeanine Townsend  
Clerk to the Board