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## Lahontan Regional Water Quality Control Board

July 20, 2017

WDID 6B141511005

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### **Amended Investigative Order No. R6V-2014-0063A2, CG Roxane LLC, Crystal Geyser Roxane Olancha Water Bottling Facility, 1210 South Highway 395, Olancha, Inyo County**

Lahontan Regional Water Quality Control Board (Lahontan Water Board) is amending Investigative Order No. R6V-2014-0063 (Investigative Order) for the above-referenced site. Results of three phases of investigation to date at CG Roxane LLC's Olancha Water Bottling Facility (Facility) document that unauthorized waste discharges from the Facility have adversely impacted water quality near the Facility. The additional investigation is necessary to determine the full lateral and vertical extent of adverse impacts to soils near the former Arsenic Pond, determine site background concentrations in soil and groundwater, complete the site investigation phase and move forward with any additional actions, as necessary.

Nothing in this Order relieves CG Roxane LLC of its responsibility to comply with other Orders, Amended Orders, or requirements, or to comply with laws and regulations that are applicable to activities necessary to produce the reports required herein.

#### **Justification**

Since 1990, CG Roxane LLC has been discharging Facility wastewater from multiple waste streams to multiple locations on and near the site without Lahontan Water Board permits. Analytical results from three phases of investigation to date document that the Facility's unregulated waste discharges have caused groundwater pollution and degradation at the Facility. The additional investigation and technical reports required herein are necessary to fill the remaining data gaps in order to complete the investigation phase and make recommendations for further actions, if needed.

The Lahontan Water Board is amending the Investigative Order pursuant to California Water Code section 13267. The amendments herein are necessary to fill the following remaining data gaps:

- Determine the full vertical and lateral extent of impacts to site soils beneath and near the former Arsenic Pond and associated appurtenances (e.g., waste conveyance pipelines) from the Facility to the Arsenic Pond and East Pond;
- Establish site background concentrations of metals and other constituents of concern (COCs) in upgradient areas that have not been impacted by the Facility's waste discharges;
- Prepare a report evaluating existing and potential risks to human health and the environment (Risk Report).
- Based on site investigation results and the risk evaluation, prepare a report recommending any further actions at the site necessary to remedy public health and environmental risks or effects (Recommendations Report).
- Extend quarterly groundwater monitoring requirements for the site until trends indicate low threat to water quality.

### **Amended Investigative Order for Technical Reports and Activities**

Pursuant to Water Code section 13267, CG Roxane LLC is hereby ordered to submit the following technical reports in continuation of the site investigation required in Water Board Investigative Order Nos. R6V-2014-0063 and R6V-2014-0063A1 for the Facility:

1. **Continue Quarterly Monitoring and Reporting Program for the 15 existing groundwater monitoring wells at the site.** By the 15<sup>th</sup> day of the month following the end of each calendar quarter, submit a Quarterly Monitoring Report presenting the results of groundwater and soil gas monitoring for the site. Reports are due January 15, April 15, July 15, and October 15 of each year.

Additionally, the fourth quarterly monitoring report for each year shall be an Annual Assessment Report that includes an analysis of the data from all four quarters compiled over the previous year, and shall provide an assessment of any overall trends observed in the data to date. The annual report shall include isoconcentration maps and time series plots (graphical depiction of groundwater concentrations versus time) for primary COCs detected at the site, including at a minimum: Arsenic, Antimony, Sodium, Sulfate, Chloride, and Total Dissolved Solids (TDS).

2. **By September 1, 2017, submit a Phase 4 Site Investigation Work Plan.** The primary focus of the Phase 4 investigation is to investigate the extent of impacts beneath and near the former Arsenic Pond and associated appurtenances, and to determine statistically valid background concentrations of COCs at the site. The Work Plan shall address the additional investigation necessary to fill the remaining data gaps, as follows:
  - a. Determine the vertical and lateral extent of impacts to soils beneath and near the former Arsenic Pond and all associated appurtenances. The Arsenic Pond soils

investigation shall include soils underlying and adjacent to the former Arsenic Pond as well as along the length of its wastewater collection and conveyance system, from the Olanca North and Olanca South buildings to the wastewater valve distribution box, and extending to the Arsenic Pond and East Pond. The soil samples shall be analyzed for all COCs at the site, including soil pH.

- b. Determine site specific background soil concentrations of metals and soil pH at the site. Water Board staff recommends collection of a representative, statistically significant (i.e., minimum of 7) set of samples for analysis from each respective soil type upgradient of wastewater impacts to determine statistically valid background concentrations (and/or range of background concentrations) of metals and pH in site soils. For each target soil zone, the investigation shall determine background concentrations of California Assessment Manual (CAM) 17 Metals and soil pH by laboratory analysis.
- c. Determine statistically significant site specific background groundwater concentrations of CAM 17 Metals (total and dissolved), total dissolved solids (TDS), general minerals, cations and anions, and groundwater sampling parameters (pH, temperature, electrical conductivity, dissolved oxygen, oxidation-reduction potential (ORP), and free and total residual chlorine by appropriately calibrated field meter analyses).

The resulting background data sets will be used to establish a baseline for evaluating concentrations of COCs from naturally occurring sources, in order to determine elevated concentrations that have resulted from the Arsenic Pond and other waste discharges at the site. The data sets will be used to better define the extent of impacts.

3. **By January 1, 2018, submit a Phase 4 Site Investigation Report.** The report shall include all elements specified in Investigative Order Nos. R6V-2014-0063 and R6V-2014-0063A1, including all of the following:
  - a. Comprehensive statistical analysis of the background concentration data set, and establishment of background levels and/or range of background concentrations for the site;
  - b. Updated isoconcentration maps and cross sections, both parallel and perpendicular to each wastewater discharge source (relative to groundwater flow), clearly depicting the full vertical and lateral extent of all COCs that exceed their respective primary and/or secondary maximum contaminant levels (MCLs), as well as COCs that exceed background concentrations in the soils and in groundwater;
  - c. A comprehensive hydrogeologic discussion and analysis, based upon the results of all four phases of site investigation, including detailed discussion and assessment of the full vertical and lateral extent of all adverse impacts (metals, volatile organic compounds (VOCs) and all other COCs) to site soils and groundwater at each source area; and

- d. Conclusions regarding the extent of contamination in each source area on the site, and recommendations for additional investigation needed (if any), and next steps, as appropriate.
4. **By March 1, 2018**, submit a report evaluating human health and ecological risks. The Risk Report shall identify and characterize the nature and extent of health risks to human and ecological receptors from potential exposure to elevated metals and other COCs in site soils, soil gas, surface water (if any), and groundwater.
5. **By May 1, 2018**, submit a Recommendations Report. The Recommendations Report shall utilize the results of investigations at the site and include:
- any corrective actions recommended for groundwater remediation at the site;
  - a recommendation for Arsenic Pond closure activities including an evaluation of closure requirements for the Arsenic Pond considering Title 27 Section 21400 closure requirements.

Copies of all CG Roxane LLC's documents, including full and complete copies of the Phase 4 Site Investigation Work Plan, the Phase 4 Site Investigation Report, the Quarterly Monitoring Reports, etc. shall be sent to each of the following:

Dave Stuck, California Department of Toxic Substances Control  
 Jerry Oser, Inyo County Environmental Health Department  
 Heidi Calvert, California Department of Fish and Wildlife.

The table below identifies the remaining compliance reports and due dates required by Investigative Order No. R6V-2014-0063A2.

**Table 1.**  
**Order No. R6V-2014-0063A2 Requirements and Due Dates**

<b>Required Technical Report</b>	<b>Due Date</b>
Continue Quarterly Monitoring and Annual Assessment Reporting, per schedule above	January 15, April 15, July 15 and October 15 each year
Phase 4 Site Investigation Work Plan	September 1, 2017
Phase 4 Site Investigation Report	January 1, 2018
Risk Report	March 1, 2018
Recommendations Report	May 1, 2018

This Amended Order is being issued pursuant to Water Code section 13267. Enclosed with this Order is a Fact Sheet (Attachment A), attached hereto and incorporated by this reference, containing information regarding the submission of technical reports. The burden to CG Roxane LLC in compiling these required technical reports, including costs, is outweighed by the Lahontan Water Board's need for the information to determine the extent of adverse impacts to site soils, water quality, and beneficial uses as a result of CG Roxane's unregulated waste discharges at its Olancha facility.

Pursuant to Water Code section 13268, any person failing or refusing to furnish technical or monitoring program reports required under Water Code section 13267, or falsifying any information provided therein, is guilty of a misdemeanor and subject to an administrative civil liability of up to one thousand dollars (\$1,000) for each day in which the violation occurs. The Lahontan Water Board reserves its right to take any enforcement action as authorized by law.

Any person aggrieved by this action of the Lahontan Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 et seq. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: [http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) or will be provided upon request.

Please contact me at (530) 542-5412 ([Patty.Kouyoumdjian@waterboards.ca.gov](mailto:Patty.Kouyoumdjian@waterboards.ca.gov)), or Lisa Scorallo, Engineering Geologist, at (530) 542-5452 ([Lisa.Scorallo@waterboards.ca.gov](mailto:Lisa.Scorallo@waterboards.ca.gov)), if you have any questions regarding this amended Order.



✉️ PATTY Z. KOUYOUMDJIAN  
EXECUTIVE OFFICER

Enclosure: Water Code section 13267 Fact Sheet

cc: Pierre Boulier, CG Roxane LLC  
Sebastien Guyard, CG Roxane LLC  
Ryan Smith, CG Roxane LLC  
Mark Grivetti, Geosyntec Consultants  
Kevin Coffman, Geosyntec Consultants  
Christopher Sanders  
Lauri Kemper, Assistant Executive Officer, Lahontan Water Board

cc: Continued next page

Catherine Pool, Senior Water Resource Control Engineer, Lahontan Water Board  
Elizabeth Beryt, State Water Board, Office of Chief Counsel  
Paul Ciccarelli, State Water Board, Office of Enforcement  
Heidi Calvert, California Dept. of Fish and Wildlife  
Malcolm Clark, Sierra Club  
Mark Bagley, Owens Valley Committee  
Tom Platz, Triad Holmes Associates  
Cathreen Richards, Inyo County Planning Department  
Marvin Moskowitz, Inyo County Environmental Health Services  
Joshua Hart, Inyo County Planning Dept.  
Bob Harrington, Inyo County Water Dept.  
Dustin Hardwick, Cartago Mutual Water Company  
Aaron Allen, U.S. Army Corps of Engineers  
Dave Stuck, California Dept. of Toxic Substances Control  
Glenn Forman, California Dept. of Toxic Substances Control  
Matt Kingsley, Inyo County Supervisor  
Kevin Carunchio, Inyo County Administrative Officer  
Kathy Barton, Inyo County Environmental Health Services

LAS/gg/T: R6V-2014-0063A2 CG Roxane Olanca Amended 13267 Order  
File Under: ECM / WDID 6B141511005

**Fact Sheet – Requirements for Submitting Technical Reports  
Under Section 13267 of the California Water Code**

October 8, 2008

**What does it mean when the regional water board requires a technical report?**

Section 13267<sup>1</sup> of the California Water Code provides that "...the regional board may require that any person who has discharged, discharges, or who is suspected of having discharged...waste that could affect the quality of waters...shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires".

**This requirement for a technical report seems to mean that I am guilty of something, or at least responsible for cleaning something up. What if that is not so?**

Providing the required information in a technical report is not an admission of guilt or responsibility. However, the information provided can be used by the regional water board to clarify whether a given party has responsibility.

**Are there limits to what the regional water board can ask for?**

Yes. The information required must relate to an actual or suspected discharge of waste, and the burden of compliance must bear a reasonable relationship to the need for the report and the benefits obtained. The regional water board is required to explain the reasons for its request.

**What if I can provide the information, but not by the date specified?**

A time extension can be given for good cause. Your request should be submitted in writing, giving reasons. A request for a time extension should be made as soon as it is apparent that additional time will be needed and preferably before the due date for the information.

**Are there penalties if I don't comply?**

Depending on the situation, the regional water board can impose a fine of up to \$1,000 per day, and a court can impose fines of up to \$25,000 per day as well as criminal penalties. A person who submits false information is guilty of a misdemeanor and may be fined as well.

**What if I disagree with the 13267 requirement and the regional water board staff will not change the requirement and/or date to comply?**

Any person aggrieved by this action of the Regional Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must *receive* the petition by 5:00 p.m., 30 days after the date of the Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:

[http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) or will be provided upon request.

**Claim of Copyright or other Protection**

Any and all reports and other documents submitted to the Regional Board pursuant to this request will need to be copied for some or all of the following reasons: 1) normal internal use of the document, including staff copies, record copies, copies for Board members and agenda packets, 2) any further proceedings of the Regional Board and the State Water Resources Control Board, 3) any court proceeding that may involve the document, and 4) any copies requested by members of the public pursuant to the Public Records Act or other legal proceeding.

If the discharger or its contractor claims any copyright or other protection, the submittal must include a notice, and the notice will accompany all documents copied for the reasons stated above. If copyright protection for a submitted document is claimed, failure to expressly grant permission for the copying stated above will render the document unusable for the Regional Board's purposes, and will result in the document being returned to the discharger as if the task had not been completed.

**If I have more questions, who do I ask?**

Requirements for technical reports normally indicate the name, telephone number, and email address of the regional water board staff person involved at the end of the letter.

<sup>1</sup> All code sections referenced herein can be found by going to [www.leginfo.ca.gov](http://www.leginfo.ca.gov). Copies of the regulations cited are available from the Regional Board upon request.