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10 Goodrich Corporation

11 CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

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14 IN THE MATTER OF PERCHLORATE
CONTAMINATION AT A 160-ACRE
15 SITE IN THE RIALTO AREA
(SWRCB/OCC FILE A-1824)

Case No.: SWRCB/OCC FILE A-1824

MOTION AND OBJECTION NO. 9

**GOODRICH CORPORATION'S NOTICE
OF MOTION, MOTION, AND
OBJECTIONS REGARDING
ADDITIONAL DISCOVERY**

Date: TBD

Date: TBD

Place: San Bernardino County Auditorium

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21 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD IN THIS ACTION:

22 PLEASE TAKE NOTICE that on a day and time to be determined, before the
23 Chair of the State Water Resources Control Board, Tam Doduc, Designated Party
24 Goodrich Corporation ("Goodrich") will and hereby does move for an Order allowing for
25 the completion of discovery prior to any hearing on the Draft Cleanup and Abatement
26 Order.

27 This motion is made on the grounds that the current timeline for the hearing
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1 scheduled for March 28, 29, 30 and April 4 and 5, 2007 does not allow for the
2 completion of highly relevant discovery before the submission of evidence on March 13,
3 2007. By this motion, Goodrich respectfully requests at least 120 days to complete
4 discovery highly relevant to this State Board proceeding.

5 Goodrich also hereby objects to the Hearing Notice and the procedures set forth
6 therein on the grounds stated herein.

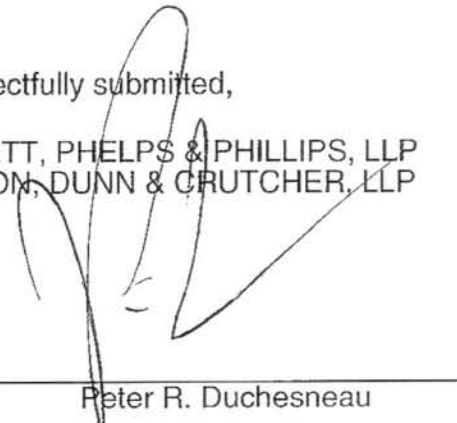
7 This motion is based upon this Notice, the attached written Memorandum of
8 Points and Authorities, and such other evidence as may be presented at or prior to the
9 hearing on this matter.

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Dated: March 5, 2007

Respectfully submitted,

MANATT, PHELPS & PHILLIPS, LLP
GIBSON, DUNN & CRUTCHER, LLP



By: _____
Peter R. Duchesneau

Attorneys for Respondent
GOODRICH CORPORATION

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MEMORANDUM OF POINTS AND AUTHORITIES

The procedures set forth in the February 23, 2007 Notice of Public Hearing in the above captioned matter (hereinafter "Order"), do not provide for the opportunity to conduct any discovery in connection with the allegations contained in the Amended Draft Cleanup and Abatement Order ("Draft CAO"). Nor does the Order provide for any time in which discovery can be conducted. Yet, Goodrich has had virtually no opportunity to conduct discovery in this State Board and Regional Board proceedings. Indeed, to date, Goodrich has worked cooperatively with the Regional Board and its staff, making any prior discovery in the administrative actions unnecessary. While Goodrich has participated in discovery in the federal litigation, this discovery is far from complete and is not necessarily applicable to the distinct remedies sought in the Draft CAO. It is thus Goodrich's position that discovery is essential to its defense in the present proceeding.

Goodrich and the other Designated Parties have the right to conduct discovery in the present State Board proceeding in order to fully explore the allegations being brought against it and other potentially responsible parties and to explore the specific remedies being sought. In any other judicial proceeding Goodrich is allowed a full and fair opportunity to conduct this type of discovery. For instance, in California State Court, Goodrich can conduct discovery pursuant to the California Code of Civil Procedure. And, in federal court Goodrich can conduct discovery under the Federal Rules of Civil Procedure. If the Hearing Officer truly wants the present proceeding to be conducted in an "expeditious, transparent, and orderly manner," as she indicated during the February 22, 2007 hearing, then it is essential that discovery be permitted in this regard. See Feb. 22, 2007 Hearing Transcript at 8:17-19.

During the February 22, 2007 hearing, both the City of Rialto and the Santa Ana Regional Board Advocacy Team ("Advocacy Team") indicated that no additional discovery is necessary because it intends to rely upon the discovery taken in the federal litigation. However, the only discovery that has been taken in the federal litigation is concerning the *conduct* of the potentially responsible parties and that discovery is not

1 even completed. Indeed, discovery in the federal litigation regarding several of the
2 fireworks entities who operated in Rialto, California is still in its infancy. Presently, there
3 are numerous depositions that need to be taken of witnesses who appear to have highly
4 relevant information regarding the conduct and disposal practices of the fireworks
5 operators in Rialto, California.

- 6 • Marty Abrams one of the owners of American Promotional Events
7 ("APE")
- 8 • Mark Adelson Santa Ana Regional Water Quality Control Board
- 9 • Herford Allen former employee of Pyrotechnics
- 10 • Thomas Allen former employee of Pyrotechnics
- 11 • Randy Ammons on the scene after the Trojan Fireworks explosion
12 that killed Jose Diaz
- 13 • Ira A. Anderson Rialto Fire Department employee who filed reports
14 regarding the February 16, 1968 explosion
- 15 • Charles C. Anderson a key principal of the APE entities and their
16 predecessors
- 17 • Eddie Amett a purchaser of raw material chemicals from APE
- 18 • Lorenzo Baca former Pyrotechnics employee
- 19 • Kurt Berchtold Santa Ana Regional Water Quality Control Board
- 20 • Kathleen Berger a long time employee of APE
- 21 • Malcolm Bernor manager of the former Pyrotechnics manufacturing
22 plant
- 23 • Larry Brown former plant manager of Trojan Fireworks
- 24 • Bob Byers involved in the surplus sale of chemicals by APE in
25 1989
- 26 • Tim Corley a key witness in the transaction between RDF
27 Holdings and APE
- 28 • Gerald Daugherty a employee of APE who participated in the
negotiations between RDF Holdings and APE
- Chief Dietrick Rialto Fire Department employee on site after 1968
explosion
- Peter Donohoe former officer and director of United Fireworks

- 1 • Jeff Dropo head of purchasing for APE
- 2 • Captain Elenburg Rialto Fire Department employee on scene for
- 3 multiple fires and explosions
- 4 • Rick Estes driver who hauled hazardous waste from Pyrotronics
- 5 to BKK
- 6 • David Gardner head of purchasing for APE
- 7 • Gerald Gerth plan superintendent for Trojan Fireworks
- 8 • Maureen Gorrindo general manager for Trojan Fireworks
- 9 • Frank B. Hal insurance agents for Pyrotronics
- 10 • Chris Hayes employed by California City Fire Department which
- 11 received fireworks from APE slated for destructions
- 12 • Pete Hernandez former employee of Pyrotronics involved in January
- 13 21, 1981 accident
- 14 Robert Holub Santa Ana Regional Water Quality Control Board
- 15 • Stanford Hopkins insurance broker for Pyrotronics
- 16 • Mo Jackson Rialto Fire Department employee who investigated
- 17 the July 28, 1987 explosion
- 18 • Captain Julian Rialto Fire Department employee who conducted
- 19 inspection after 1968 explosions
- 20 • Pat Kanappel head of purchasing for APE
- 21 • Joseph H. King Rialto Fire Department employee during August 4,
- 22 1981 explosion
- 23 • Harry Lawner former officer and director of United Fireworks
- 24 Gary Litton Former employee at the Santa Ana Regional Water
- 25 Quality Control Board
- 26 • Jack Martin vice president of Clipper Fireworks
- 27 • K.C. Matthews employee of RDF Holdings and APE
- 28 • Hugh L. McCutchen outside contractor for APE
- B.L. Merchant general manager of Pyrotronics
- James B. Miller former maintenance employee at Pyrotronics
- James F. Morris maintenance chairman at Pyrotronics

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- Larry Mullins Bureau of Alcohol Tobacco and Firearms
- Guillermo Padilla employee of APE and involved in the disposal of firework material
- Captain Poole Rialto Fire Department employee who participated in response to fire at Pyrotronics in 1976
- Kamron Saremi Santa Ana Regional Water Quality Control Board
- Chuck Shaw employee of the Rialto Fire Department who dealt with APE's burn permit
- William Schroeder Rialto Fire Department employee present during 1985 fire at Pyrotronics
- Lorraine Sherrin present at the 1980 fire at Pyrotronics
- Catherine Smothers former Pyrotronics employee
- A.J. Stuart assistant manager for APE
- Gerry Thibeault Santa Ana Regional Water Quality Control Board
- V. J. Tovatt officer of Clipper Fireworks
- Orville Turner helped California City burn waste firework material from APE
- Ramon Valdez assisted in the offsite burning of firework waster material from APE and former Pyrotronics employee
- Stephen Van Stockum County of San Bernardino
- Ray von Proctor involved in the sale of surplus firework material by APE
- B. W. Wells yearly vice president and pyrotechnician at Trojan
- Dave Widtfeldt former manager at Pyrotronics
- Dwight Williams contractor who constructed the McLaughlin Pit
- Peter S. Yu APE employee involved in purchasing fireworks

In addition to the depositions of the witnesses identified above, Goodrich anticipates significant document discovery regarding several of the fireworks entities' operations, potential successor liability, and the state, county and city's role in the fireworks entities'

1 operations.

2 Moreover, Goodrich has not had an opportunity to conduct any discovery in
3 the State Board or Regional Board actions regarding the allegations contained in the
4 Draft CAO. Therefore, in order to fully understand the allegations against Goodrich and
5 the other designated parties, discovery in the form of depositions and written discovery is
6 necessary.

7 More importantly, for the City of Rialto and the Advocacy Staff to claim that
8 no additional discovery is necessary is simply disingenuous because **virtually no**
9 **discovery has been conducted in the federal litigation on these two entities.**

10 Indeed, no discovery has been taken in the federal litigation regarding any of the
11 remedies sought in the Draft CAO or the *necessity* for these remedies. The Draft CAO
12 seeks a multitude of remedies including that the alleged “[d]ischargers shall reimburse
13 West Valley Water District and the Cities of Rialto and Colton for past and ongoing
14 reasonable costs incurred in cleaning up waste, abating the effects of waste, supervising
15 cleanup and abatement activities, or taking other remedial action. . . .” Draft CAO at 30-
16 31. However, because the federal litigation is phased, the first phase being liability and
17 the second phase being damages and allocation, no discovery has been taken in the
18 federal litigation regarding the past or future costs incurred by the City of Rialto.
19 Moreover, the West Valley Water District is not even a party in the federal litigation so no
20 discovery has been taken regarding its past or future costs.

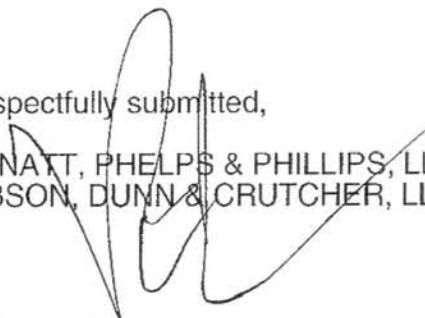
21 As a further example, the Draft CAO contemplates ordering water
22 replacement for certain wells and contingency water replacement plans for other wells.
23 Discovery is thus necessary to determine the necessity of this remedy, including
24 discovery regarding any experts either the City of Rialto or the Advocacy Team intends
25 to rely upon to support the need for water replacement. At this time, Goodrich is unable
26 to identify the names of all the individuals who may have knowledge on this subject as it
27 has not focused on such discovery in the federal litigation and the fact that the identify of
28 experts have not yet been disclosed in the federal litigation.

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By this Motion, Goodrich hereby requests that it be permitted the opportunity to complete the discovery outlined above prior to any hearing on the Draft CAO. Goodrich believes that, if the parties act diligently, the above proposed discovery can be completed in 120 days.

Dated: March 5, 2007

Respectfully submitted,
MANATT, PHELPS & PHILLIPS, LLP
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