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(1929 - 2002)

February 13, 2005

Kenneth D. Landau, Acting Executive Officer
Regional Water Quality Control Board
Central Valley Region
11020 Sun Center Drive, #200
Rancho Cordova, California 95670

**Re: Update regarding ACL Complaint No. R5-2005-0525 ("Area 8"-
APN 011-780-014) –Virginia L. Drake, Trustee, Drake Revocable
Trust- Area 8 Cleanup**

Dear Mr. Landau :

I write in response to the January 26th letter of Chico City Attorney David Frank in connection with the above-referenced matter. Mr. Frank's assertions deserve a response and would have received a more timely response had he bothered to copy me or my client, Baldwin Contracting Company Inc. ("Baldwin"), on his letter.

The gist of Mr. Frank's letter is that Baldwin is responsible for contaminated soil it received from the City in 1987 and that any City liability for that soil stopped once it left the City's possession. Mr. Frank's conclusions are simply wrong in this whether viewed under state law, federal law or State Water Resources Control Board decisional authority, an analysis of which Baldwin provided the City of Chico eighteen months ago and Regional Board Counsel just last month. Under the law the City of Chico remains strictly liable for its contaminated soil. This is not a close legal issue. The City never responded to the Baldwin's legal analysis eighteen months ago and Mr. Frank's January 26th letter can hardly be considered a legal response as he cites no legal authority in support of the City's position.

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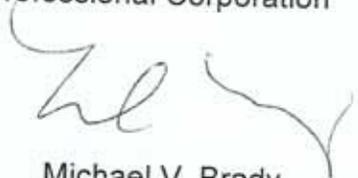
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Baldwin expresses no opinion as to the rest of Mr. Frank's letter. Baldwin remains hopeful that the other parties can, like Baldwin has, see their way to making constructive offers to resolve this matter to Regional Board satisfaction.

Very truly yours,

DIEPENBROCK HARRISON
A Professional Corporation

By:


Michael V. Brady

MVB/lcb

cc: Robert H. Schneider, Chair, CVRWQCB
Frances McChesney, Esq., Staff Counsel
✓ James C. Pedri, Assistant Executive Officer
David. R. Frank, Esq.
Randall Nelson, Esq.
Mac Goldsberry, Esq.
K. Greg Peterson, Esq.

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