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## Lahontan Regional Water Quality Control Board

January 11, 2013

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San Ramon, CA 94105-1814

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### **INVESTIGATIVE ORDER NO. R6V-2013-0001 REQUIRING ADDITIONAL REPORTING AND ACCEPTANCE OF REPLACEMENT WATER PROGRAM CHANGE IN RESPONSE TO VIOLATIONS OF CLEANUP AND ABATEMENT ORDER NO. R6V-2011-0005A1, PG&E COMPRESSOR STATION, HINKLEY, SAN BERNARDINO COUNTY (WDID 6B369107001)**

On October 11, 2011, the Lahontan Regional Water Quality Control Board (Water Board) issued Amended Cleanup and Abatement Order No. R6V-2011-0005A1 (2011 Amended Order) to PG&E requiring the whole house water replacement for certain residents of Hinkley, CA. Paragraph 1.d of the 2011 Amended Order requires that PG&E submit documentation in quarterly reports “on the quality of the replacement water service consistent with the monitoring plan submitted in Paragraph 1.c...” The November 2011 monitoring plan previously accepted by the Water Board states that primary and secondary drinking water standards and hexavalent chromium levels of less than 0.02<sup>1</sup> micrograms per liter (µg/l) will be met in bottled water. Paragraph 2.f of the 2011 Amended Order also requires that PG&E submit “evidence to prove that provided water meets state primary and secondary drinking water standards and contains hexavalent chromium in concentrations of no greater than 0.02 micrograms per liter (µg/l)<sup>1</sup>...”

PG&E has failed to comply with the 2011 Amended CAO, as follows:

#### **Violation 1**

On November 14, 2012, the Water Board received PG&E’s third quarter 2012 monitoring report (November 14 Report) submitted pursuant to Paragraph 1.d of the 2011 Amended Order. The November 14 Report violates the 2011 Amended Order’s requirement to submit quarterly verification to show that the interim water supply meets hexavalent chromium levels of less than 0.06 µg/l. In fact, the November 14 Report contains information showing that interim water supply from Culligan’s 5-gallon bottles during the months of August and September 2012 contained hexavalent chromium at concentrations greater than 0.06 µg/L; 0.11 µg/L was reported for August and 0.14 µg/L was reported for September.

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<sup>1</sup> For purposes of this standard, drinking water must test below the reporting limit of 0.06 µg/l due to the limitation of laboratory analysis of low levels of chromium.

The November 14 Report makes no mention that PG&E ceased distribution of Culligan bottled water to residents as a result of its failure to meet the hexavalent chromium standard of 0.06 µg/L, or that the public was informed that Culligan bottled water contained hexavalent chromium at concentrations greater than 0.06 µg/l in August and September 2012. The November 14 Report shows that during October 2012, Culligan bottled water did meet the requirement for hexavalent chromium levels of less than 0.06 µg/L and other drinking water standards.

The November 14 Report indicates that Sparkletts bottled water, the alternative bottled water supply for Hinkley residents, did meet the less than 0.06 µg/l hexavalent chromium requirement during the months of August and September, 2012. Water Board staff believes that Sparkletts water could have been substituted for the Culligan bottled water during at least the month of September, after receiving the August water testing results. The period of violation occurred during the months of August and September, for a **total of 61 days**.

The Water Board is in receipt of a letter from PG&E dated December 17, 2012, which proposed an alternative testing program for bottled water. The proposed program suggests that PG&E store of bottled water until the sampling results of each lot indicate that the water contains non-detectable levels of hexavalent chromium. Bottled water not meeting this requirement will not be delivered to Hinkley residents. The letter, however, did not list a start date for the proposed testing program.

## **Violation 2**

On October 5, 2012, the Water Board received a document (October 5 Report) from PG&E in accordance with the 2011 Amended Order. The October 5 Report contains a discussion of items required in Paragraph 2.f, such as well number, how and when owner was contacted, and method used to provide permanent whole house replacement water. Property addresses of individual property owners were not submitted due to privacy concerns. The rationale for this omission is satisfactory to the Water Board.

The October 5 Report states that a permanent whole house replacement water system was installed at two residences by October 3, 2012. Water Board staff's review of the October 5 Report, however, finds that PG&E has failed to provide evidence to prove that treated water supply to each residence meets primary and secondary drinking water standards and contains hexavalent chromium levels of less than 0.06 µg/l. While the October 5 Report contains 67 pages of laboratory analytical data, it fails to discuss the laboratory data, what it means, date when treated water was first supplied to the residences, and whether treated water supply meets the CAO standards. The incomplete report is in violation of the 2011 Amended Order since the deadline of October 5, 2012.

Water Board Staff has reason to believe that PG&E is performing additional testing of the whole household replacement water systems not required by the 2011 Amended Order. This Investigatory Order requires submission of those additional testing results in order to provide transparency to households receiving whole house replacement water, and to the general public.

**PG&E MUST IMMEDIATELY CEASE DELIVERY OF BOTTLED WATER THAT DOES NOT MEET THE REQUIREMENTS OF THE 2011 AMENDED ORDER:** PG&E shall not deliver any bottled water to Hinkley residents that does not meet the required drinking water quality standards contained in the 2011 Amended Order. The 2011 Amended Order requires PG&E to provide quarterly verification that water supply meets state drinking water standards and hexavalent chromium levels of less than 0.06 µg/l. When laboratory reports indicate that bottled water does not meet one or more of the required drinking water standards or chromium levels, the 2011 Amended Order requires PG&E to cease distributing such water and provide alternate interim water supply that does meet the standards and chromium levels. The public also needs to be informed within 10 working days of receiving laboratory reports indicating that any supplied bottled water failed to meet the requirements.

**IT IS HEREBY ORDERED, PURSUANT TO WATER CODE SECTION 13267:**

- 1. SUBMISSION OF INFORMATION RELATED TO BOTTLED WATER STORE AND TEST PROGRAM:** By January 31, 2013, PG&E must submit details about its proposed bottled water testing program originally suggested in its December 17, 2013 report. The Assistant Executive Officer will decide to accept or reject the program as sufficient alternative compliance with the 2011 Amended Order. If accepted, future quarterly monitoring reports must detail the results of the bottled water store and test program. PG&E **must continue** to report the results of the current bottled water testing program until the alternative bottled water store and test program is accepted by the Water Board.
- 2. SUBMISSION OF ADDITIONAL TECHNICAL AND MONITORING REPORTS RELATED WATER QUALITY FROM WHOLE HOUSEHOLD REPLACEMENT WATER SYSTEMS:** By March 1, 2013, PG&E must amend its October 5 Report to include evidence and an analytical discussion which proves that permanent replacement treated water supply (i.e., a household filtration system) meets drinking water standards and hexavalent chromium levels less than 0.06 µg/l. Until PG&E provides such discussion of the laboratory data, its meaning, date when treated water was first supplied to the residences, and whether treated water supply meets the CAO standards, it is in violation of the 2011 Amended Order.
- 3. START DATE OF BOTTLED WATER TESTING AND MONITORING PROGRAM:** Within 14 days from the date of this Order, PG&E shall be required to provide a date to the Water Board stating when the proposed bottled water testing and monitoring program will begin (or began). Ongoing quarterly reports must continue to contain results of bottled water testing.
- 4. REVERSE OSMOSIS INVESTIGATION REPORT:** Within 60 days of the date of this Order, PG&E shall submit a report with results of the additional investigation of the reverse osmosis system and household plumbing/fixtures to evaluate potential sources of chromium that have been found between the ion exchange and reverse osmosis systems.

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Pacific Gas and Electric Company

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Technical reports required by this Order are necessary to investigate the quality of water service being provided to Hinkley residents pursuant to Cleanup and Abatement Order R6V-2011-0005 and amendments. The need for this investigation outweighs the burden on PG&E to produce the information for verifying that provided water service does not pose potential threats to public health.

You may contact Lisa Dernbach at (530) 542-5424 and at [ldernbach@waterboards.ca.gov](mailto:ldernbach@waterboards.ca.gov) or me at (530) 542-5436 and at [lkemper@waterboards.ca.gov](mailto:lkemper@waterboards.ca.gov) if you have any questions or comments concerning this letter.



Lauri Kemper  
Assistant Executive Officer

Enclosure: 13267 Order Fact Sheet

cc: PG&E Hinkley Lyris List  
PG&E Hinkley Technical Mail List

LSD/adw/T:PGE 13267 Order for WHW replacement program violations  
To be filed: (VVL) WDID: 6B369107001

**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.