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5 Attorneys for Interested Party  
6 VALLEY-ALHAMBRA PROPERTIES,  
a California general partnership

8 STATE OF CALIFORNIA

9 STATE WATER RESOURCES CONTROL BOARD

10 IN THE MATTER OF THE PETITION OF  
11 LEGGETT AND PLATT, INC., FOR  
12 REVIEW OF WATER CODE SECTION  
13267 ORDER DATED JUNE 11, 2008 BY  
13 THE CALIFORNIA REGIONAL WATER  
14 QUALITY CONTROL BOARD, LOS  
ANGELES REGION

Petition No.

PARTIAL JOINDER OF VALLEY  
ALHAMBRA PROPERTIES IN PETITION  
FOR REVIEW PURSUANT TO WATER  
CODE SECTION 13320 AND 23 C.C.R.  
§2050 ET SEQ; DECLARATION OF GARY  
J. HERMAN, SR. IN SUPPORT THEREOF

16 I. INTRODUCTION

17 Valley-Alhambra Properties ("Valley Alhambra") is a partnership which is the owner of real  
18 property located at 4900 Valley Boulevard, Los Angeles, California ("Site"). Valley Alhambra is a  
19 party interested in the proceedings initiated by the Regional Water Quality Control Board ("Regional  
20 Board") which resulted in the issuance of an order pursuant to Water Code Section 13267 on June  
21 11, 2008 ("June 11 Order") directed to Leggett and Platt, Inc., the successor in interest to Valley  
22 Alhambra's former tenant on the Site. The Valley Alhambra partnership has always consisted of a  
23 group of elderly owners, several of whom have passed away during the lengthy time that this  
24 remediation process has been pending. As set forth in detail in the accompanying Declaration of  
25 Gary Herman, Sr., one of the remaining partners of Valley Alhambra, this process has been ongoing  
26 for well over 10 years and has had a significant negative impact on the use and financing of the  
27 property, has detrimentally impacted its rental value and has precluded any sale of the property for a  
28 full fair market value.

1 During the period since Leggett and Platt ceased its operations on the property, the Site has  
2 been rented to a succession of warehousing tenants. There have been no manufacturing operations at  
3 the property during that period nor occupation by any tenant whose use would have involved any risk  
4 of discharge of contaminants or have contributed in any way to any pre-existing hazardous  
5 conditions on the Site. Declaration of Gary Herman, Sr., paragraph 3.

6 **II. NAME AND ADDRESS OF PARTY IN INTEREST**

7 All correspondence and written communications regarding this matter should be directed to:

8 Gary J. Herman, Sr.  
9 1201 S. Olive Street  
10 Los Angeles, California 90015  
11 Telephone: 213-747-6531, Ext. 114  
12 Facsimile: 213-747-4305  
13 [garysr@sdherman.com](mailto:garysr@sdherman.com)

14 With a copy to:

15 Linda L. Northrup, Esq., Counsel for Valley Alhambra Properties  
16 Northrup Schlueter, A Professional Law Corporation  
17 31365 Oak Crest Drive, Suite 250  
18 Westlake Village, California 91361  
19 Telephone: 818-707-2600  
20 Facsimile: 818-707-2675  
21 [lnorthrup@nsplc.com](mailto:lnorthrup@nsplc.com)

22 **III. SPECIFIC ACTION OF THE REGIONAL WATER BOARD FOR WHICH STATE  
23 WATER BOARD REVIEW IS REQUESTED**

24 Valley Alhambra joins in the request of Leggett and Platt for review of the Section 13267  
25 Order issued by the Regional Water Board on June 11, 2008 ("June 11 Order") to the extent set forth  
26 herein and incorporates by reference the copy of the order attached to the Petition of Leggett and  
27 Platt as Exhibit A.

28 **IV. DATE OF THE REGIONAL WATER BOARD ACTION**

June 11, 2008.

**V. STATEMENT OF REASONS WHY THE REGIONAL WATER BOARD'S ACTION  
WAS INAPPROPRIATE OR IMPROPER**

Valley Alhambra partially joins in the Petition of Leggett and Platt for the reasons set forth  
below:

1           1.       Investigation, remediation, and confirmation monitoring activities, as well as the data  
2 derived from these activities, evidence that current conditions of the soil and ground water at the Site  
3 do not pose a substantial risk to human health or the waters of the State;

4           2.       Given the extensive work performed at the Site over the last 10 years, characterization  
5 of the Site is sufficient to understand the pre- and post-remedial conditions at the Site;

6           3.       The burden, including costs of compliance, imposed by the Order does not bear a  
7 reasonable relationship to the benefits that may be obtained from the reports and investigations  
8 sought by the Order;

9           4.       Investigation, remediation, and confirmation monitoring to date justifies closure of  
10 the Site without further investigation.

11           Valley Alhambra joins in the request of Leggett and Platt that the Petition be held in  
12 abeyance for the maximum period and reserves its right to supplement its submission if the Petition  
13 is reactivated.

14           However, to the extent that any portion of the Leggett & Platt Petition is based on an  
15 argument that Leggett and Platt is not a proper party or subject to the jurisdiction of the Water Board  
16 with respect to this Site and orders relating thereto, Valley Alhambra expressly declines to join in  
17 those portions of the Petition and opposes any such relief sought by Leggett and Platt in connection  
18 therewith and reserves the right to supplement its submission with additional authorities and  
19 evidence should any hearing be held thereon.

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21 **IV.    STATEMENT OF GRIEVANCE OF INTERESTED PARTY**

22           Valley Alhambra is aggrieved by the Order because: (1) Closure should have been issued  
23 when requested by Valley Alhambra on terms which had been approved by the Regional Water  
24 Board in January 2007; and (2) the June 11 Order imposes an excessive and continuing unnecessary  
25 financial burden on Valley Alhambra as the owner of the Site. See Declaration of Gary J. Herman,  
26 Sr. submitted herewith.

1 **VII. SPECIFIC ACTION THAT INTERESTED PARTY REQUESTS THE STATE**  
2 **BOARD TO TAKE**

3 Valley Alhambra requests that the June 11 Order be rescinded in its entirety on the grounds  
4 that it is beyond the scope of investigation necessary to characterize the Site for closure. The State  
5 Water Board should direct the Regional Water Board to issue a closure letter for the Site.

6 Valley Alhambra joins Petitioner's request that the State Water Board hold this Petition in  
7 abeyance for the maximum time period or until reactivated. Valley Alhambra reserves the right to  
8 amend its submission and to request further action if the Petition is reactivated.

9 To the extent that any portion of the Leggett & Platt Petition requests that the Order be  
10 rescinded only as to Leggett and Platt, that Valley Alhambra be joined or that there be a finding that  
11 Leggett and Platt is not a proper party subject to the June 11 Order or subject to the jurisdiction of  
12 the Water Board or Regional Water Board with respect to this Site and orders relating thereto, Valley  
13 Alhambra expressly declines to join in those portions of the Petition and opposes any such relief  
14 sought by Leggett and Platt in connection therewith and reserves the right to supplement its  
15 submission with additional authorities and evidence should any hearing be held thereon.

16 **VIII. PARTIAL JOINDER IN POINTS AND AUTHORITIES SUBMITTED BY**  
17 **PETITIONER LEGGETT AND PLATT**

18 Valley Alhambra joins and incorporates herein by reference the arguments and authorities  
19 contained in the Petition of Leggett and Platt in Section VIII., Parts A. (Applicable Standard of  
20 Review), C. (Data from Ground Water Sampling Reports ...Show that the Current condition of the  
21 Soil and Groundwater Does not Pose a Substantial Risk, etc.), D. (The Regional Water Board Has  
22 Not Provided Prima Facie Evidence to Show a Change in Conditions Since it Ordered the  
23 Remediation Equipment Removed and Stated the Site was Eligible for Closure, Subject to  
24 Restrictive Covenants), and E. (The Cost Associated with the Investigation Required by the Order  
25 Has No Reasonable Relationship to the Nominal Threat, etc.).  
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**IX. STATEMENT OF SERVICE ON REGIONAL WATER BOARD**

A copy of this partial joinder has been sent to the Regional Water Board.

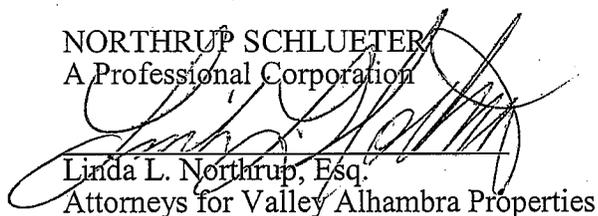
**X. JOINDER IN REQUEST FOR PREPARATION OF RECORD, FOR EVIDENTIARY HEARING AND FOR STAY**

Valley Alhambra joins in the request of Leggett and Platt for the preparation of the record in this matter by the Regional Water Board, for a Stay of the June 11 Order and for an evidentiary hearing on the matters raised in the Petition for the reasons and based on the authority stated therein to the extent joined by Valley Alhambra herein.

**XI. CONCLUSION**

Based on the fact that this Site has been subject to a full and complete investigation and remediation and was approved for closure by the Regional Water Board and that no new information or conditions warrant reopening of the Site and that the great financial burdens imposed by the June 11 Order far outweigh the potential benefits, if any, from the new work required thereunder, Valley Alhambra joins in the requests for relief, including a stay and evidentiary hearing, set forth in the Petition of Leggett and Platt, Inc. and incorporates the facts and legal authorities set forth therein to the extent and on the grounds set forth herein.

Dated: July 10, 2008

NORTHROP SCHLUETER  
A Professional Corporation  
  
Linda L. Northrup, Esq.  
Attorneys for Valley Alhambra Properties

1 DECLARATION OF GARY HERMAN, SR.

2 I, Gary J. Herman, Sr. declare as follows:

3 1. I am 77 years old and am one of the remaining partners (with my 76 year old wife,  
4 Beverly) of Valley Alhambra Properties, a partnership which is the owner of real property located at  
5 4900 Valley Boulevard, Los Angeles, California ("Site"). I have been a commercial real estate  
6 broker and property manager for over fifty years and have been extensively involved in the  
7 management, leasing, financing and sale of commercial and industrial properties similar to the Site at  
8 issue. I have personal knowledge of the facts set forth herein and could and would competently  
9 testify thereto under oath.

10 2. In 1993 when contamination was first identified at the Site, the partners in the  
11 property included Ruth Shelby and Barney and Dorothy Weingard. In 2003 at the age of 90, Ruth  
12 Shelby passed away. Her interest in the property is currently held by her son, Charles Shelby, a  
13 Catholic priest who resides in Illinois. Earlier this year, at the age of 90, Barney Weingard passed  
14 away. Although his wife, Dorothy, is a remaining partner, she suffers from severe Alzheimer's  
15 disease, was not even able to attend her husband's funeral, and depends on the income from this  
16 property to fund her required full time nursing care. My wife and I suffer from numerous age related  
17 health conditions. I recently had serious colon surgery and my wife was recently diagnosed with an  
18 inoperable aneurysm and faces additional surgery in the coming months.

19 3. I have been the person primarily responsible for managing the Site for the Valley  
20 Alhambra partnership. After Leggett & Platt shut down its facility, the property was vacant until  
21 August 1995. Since then, the following tenants have occupied the Site for the various businesses  
22 described below, none of which involve manufacturing or use of solvents or chemicals to the best of  
23 my knowledge and belief. I have visited the Site numerous times while these tenants have been in  
24 occupancy and have seen nothing on the Site inconsistent with the type of business authorized to be  
25 conducted under their respective leases as set forth below:

26	1995 - 1999	Apak International	Warehousing of used clothing
27	1999 - 2002	Los Angeles City Mission	Warehousing of used clothing
28	2002 - 2003	A-1 Clothing	Warehousing of used clothing

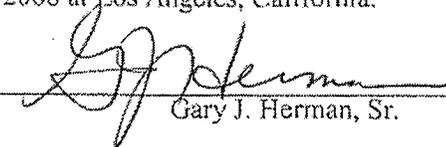
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2003 - 2007	Sasco Electric	Warehousing of electrical products
2007 - present	Murray Plumbing & Heating	Warehousing of plumbing products

5. In my experience, it is possible to demand and obtain higher rents from tenants with manufacturing operations or more sophisticated business operations. Warehousing is a use which generally brings in a lower quality tenant and property usable only as warehousing space has a lesser rental value than property which can be used for manufacturing operations. Over the past 13 years, I have attempted to market the Site to manufacturing tenants such as had been on the property up to the time it was vacated by Leggett and Platt. However, the fact that the site is subject to an ongoing and open investigation and remediation by the Regional Water Board has been a reason stated to me by numerous prospective manufacturing tenants that they will not consider leasing the property for their businesses as they do not want to risk being held responsible for any hazardous conditions which may exist on the property. This has in my opinion, drastically reduced the rental income that Valley Alhambra has been able to obtain for this property and this impact will continue as long as the Site remains open and the ongoing investigations continue.

6. During the lengthy period in which this Site has been under investigation and remains open, the Valley Alhambra partners have been subject to extreme financial hardship as relates to this Site. The pending remediation (now for over 15 years) and characterization of the Site as an open site has had a significant deleterious impact on the ability to obtain financing for the property, on the rental income for this property and has prevented any sale of the property for its full commercial property value.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed this 10<sup>th</sup> day of July, 2008 at Los Angeles, California.

  
\_\_\_\_\_  
Gary J. Herman, Sr.

(PROOF OF SERVICE)

STATE OF CALIFORNIA        ]  
  ]ss.  
COUNTY OF LOS ANGELES    ]

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within proceeding; my business address is 31365 Oak Crest Drive, Suite 250, Westlake Village, California 91361.

On July 10, 2008, I served the following document(s) described as **PARTIAL JOINDER OF VALLEY ALHAMBRA PROPERTIES IN PETITION FOR REVIEW PURSUANT TO WATER CODE § 13320 AND 23 C.C.R. §2050; DECLARATION OF GARY J. HERMAN, SR. IN SUPPORT THEREOF** on the interested parties in this proceeding by facsimile to the numbers listed below and by placing true and correct copies thereof in a sealed envelope addressed as follows:

Mr. David Young Regional Water Quality Control Board 320 West Fourth St. Suite 200 Los Angeles, California Facsimile No. 213-576-6640	State Water Resources Control Board Office of Chief Counsel Jeannette L. Bashaw 1001 I Street 22 <sup>nd</sup> Floor Sacramento, California Facsimile No. 916-341-5199
Joan C. Donnellan, Esq. Parker, Milliken, Clark, O'Hara & Samuelian 555 So. Flower Street, 30 <sup>th</sup> Floor Los Angeles, California 90071 Facsimile No. 213-683-6669 Counsel for Leggett and Platt, Inc.	

**BY EXPRESS SERVICE CARRIER**

I deposited in a box or other facility regularly maintained by the express service carrier in an envelope or package designated by the express service carrier with delivery fees paid or provided for, addressed to the person on whom it is to be served.

Executed on July 10, 2008, at Los Angeles, California.

**STATE** — I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

**FEDERAL** — I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

\_\_\_\_\_  
LINDA L. NORTHRUP

