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THE GILLETTE COMPANY  
7

8 STATE OF CALIFORNIA

9 STATE WATER RESOURCES CONTROL BOARD

10 In the Matter of Los Angeles Regional Water ) No:  
11 Quality Control Board Cleanup and Abatement )  
12 Order No. R4-2008-0034 - Former Gillette Paper ) **PETITION FOR REVIEW AND**  
Mate Facility, Santa Monica, California ) **REQUEST FOR HEARING**

13  
14 This petition for review and request for hearing is respectfully submitted to the California  
15 Water Quality Control Board ("State Board") on behalf of The Gillette Company ("Gillette" or  
16 "Petitioner") pursuant to California Water Code Section 13320 (a) and California Code of  
17 Regulations ("CCR") Title 23, Section 2050, *et seq.*, for review of Order No. R4-2008-0034 that  
18 was issued by the Executive Officer of the California Regional Water Quality Control Board  
19 ("Regional Board") on July 25, 2008 without hearing or designation of record (the "CAO" or  
20 "Order"). A copy of the Order is attached hereto as Exhibit A.

21 Gillette concurrently, but separately, seeks a stay of the Order pursuant to California Water  
22 Code § 13321 and 23 CCR § 2053 because the Order requires Gillette to perform actions which are  
23 the subject of the Petition and Gillette will suffer substantial harm if the stay is not granted. No  
24 substantial harm will be incurred by any other interested person, or the public, if the stay is granted,  
25 and there are substantial questions of fact and law regarding the Order and its validity.

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27 Gillette has, concurrently with filing this Petition, asked the Regional Board to provide an  
evidentiary hearing on the CAO to consider serious procedural and substantive issues and to create  
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1 a record necessary for State Board and, if needed, judicial review of the CAO. If the Regional  
2 Board agrees to Petitioner's request, and if the Regional Board amends certain compliance  
3 deadlines in the CAO that Gillette (as the Regional Board knows) cannot meet, Gillette will request  
4 that the State Board hold this petition for review and request for stay in abeyance to allow Gillette  
5 sufficient opportunity to participate in an evidentiary hearing before the Regional Board.

6  
7 **I. Name and Address of Petitioner**

8 Petitioner may be contacted through counsel of record: Kevin C. Mayer, Esq., Liner  
9 Yankelevitz Sunshine & Regenstreif, LLP, 1100 Glendon Avenue, 14th Floor, Los Angeles,  
10 California 90024-3503, (310) 500-3500, (310) 500-3501 (fax).

11 **II. Specific Action or Inaction for Which This Petition For Review is Sought**

12 The Regional Board action and/or inaction for which this petition is filed involves the  
13 issuance of "Cleanup and Abatement Order No. R4-2008-0034," (Exhibit A) dated July 25, 2008,  
14 by the Executive Officer without hearing or opportunity to respond, and served on Gillette on July  
15 28, 2008. With respect to the former Paper Mate site in Santa Monica, CA ("Site"), the CAO  
16 compels Petitioner to undertake all assessment, monitoring, reporting, cleanup and abatement of  
17 effects of VOCs and other contaminants released to soil from the Site and commingled in  
18 groundwater with discharges from multiple other sources below the Site and in the vicinity of the  
19 Site. The Regional Board failed to provide Petitioner with an opportunity to introduce evidence to  
20 refute the CAO's findings as to extent and contribution of Petitioner's alleged discharges to the  
21 commingled plume. Further, the Regional Board failed to provide Petitioner with the opportunity  
22 to refute findings and conclusions compelling "uninterrupted replacement water service."  
23 Petitioner has been singled out by the Regional Board as the sole party responsible for the  
24 commingled plume, despite findings and substantial evidence to the contrary. Petitioner has been  
25 denied its fundamental rights of due process and equal protection and, as a consequence, has had  
26 imposed on it findings of purported fact and regulatory burdens that are unsupported by the  
27  
28

1 requisite level and nexus of proof. As a result, and without relief from the State Board, Petitioner  
2 stands to bear what are tantamount to punitive costs and expenses.

3  
4 **III. The Date the Regional Board Acted or Failed to Act**

5 The Executive Officer executed the CAO on July 25, 2008.

6  
7 **IV. Statement of the Reasons the Action is Inappropriate and Improper**

8 The issues raised in this Petition were raised, in part, to the Regional Board Executive  
9 Officer on August 18, 2008, and Petitioner was subsequently informed that no changes to the Order  
10 would be made. While Petitioner concurrently is requesting an evidentiary hearing before the  
11 Regional Board, the Regional Board will not have time to rule on such a request before the due  
12 date of this Petition. In addition, there are compliance dates in the CAO that, as the Regional  
13 Board knows and acknowledges, cannot be met and will expose Petitioner to civil penalties if not  
14 stayed.

15 The CAO is defective and invalid for both procedural and substantive reasons. The CAO is  
16 beyond the authority of the Regional Board, inappropriate under the circumstances, and  
17 unsupported by a proper evidentiary record. The following summarizes, but is not an all-inclusive  
18 list, of the improper actions of which Petitioner complains:

19  
20 **Procedural Defects.**

21 1. There is no evidentiary record to support the CAO, and there is no way to ascertain  
22 such a record in support of the findings and requirements of the Order. Petitioner has been given  
23 no reasonable opportunity to be heard and, in the absence of a record to support the CAO, is  
24 without a basis to defend itself against the punitive actions imposed on it by the Order.

25 2. The Order includes Required Actions not supported by any evidence. For example,  
26 the Order requires Gillette to restore portions of the City of Santa Monica's water supply made  
27 unusable as a result of releases at the Site even though there is no evidence, and there are no  
28 findings in the Order, that support this conclusion.

1           3.       The Order includes General Provisions that have neither nexus nor relevance to, nor  
2 are they supported by, findings of fact or substantial evidence. For example, the Order requires  
3 Gillette to provide uninterrupted replacement water service based only on a bare assertion that  
4 Gillette has “impaired” such service even though there is no evidence, and there are no findings in  
5 the Order, that support this conclusion.

6           4.       Petitioner has been harmed by unlawful *ex parte* communications between the  
7 decision-maker and the prosecution, both technical and legal, in violation of statutory and  
8 constitutional protections, and has reason to believe it has been harmed as a result of  
9 communications between the decision-maker and the City of Santa Monica, itself a contributing  
10 responsible party for regional groundwater contamination.

11          5.       The Order was issued in contravention of the State Board’s policy of progressive  
12 enforcement. There is no evidence of, and no assertion of, non-compliance by Petitioner. On the  
13 contrary, Petitioner has been fully cooperative in complying with the prior orders of the Board, and  
14 has and will spend \$68 million in the course of this history of compliance. Attached hereto as  
15 Exhibit B is an outline of Petitioner’s compliance.

16          6.       The Order fails to identify evidence in support of the requirement imposed upon  
17 Petitioner to provide technical reports and plans.

18

19               **Substantive Defects.**

20          1.       The Order contains compliance dates that the Regional Board knows, and that the  
21 Regional Board acknowledges in the Order, cannot be met, thereby exposing Gillette to civil  
22 penalties that can only be described as punitive in nature. For example, the Order states as a  
23 finding that: “Gillette is currently in the process of selecting a vendor for the ISTT remedial  
24 work.” The “ISTT” (in-situ thermal treatment) is a complex, expensive project intended to  
25 remediate soil and shallow groundwater at the Site; it has been approved by the Regional Board  
26 and Gillette is in the process of, as the Order acknowledges, seeking a contractor to design,  
27 construct, operate and dismantle the ISTT. Yet, the Order mandates that Gillette submit a “final  
28 design” by August 30, 2008—a date that Gillette cannot meet as the Regional Board must concede

1 by its own finding of fact. By including this compliance date in the Order, the Regional Board  
2 exposes Gillette to punitive civil penalties.

3         2.       The Order imposes obligations solely on Gillette with respect to replacement water  
4 and groundwater restoration even though there is a vast amount of information, of which the  
5 Regional Board is aware, documenting that the groundwater under and in the vicinity of the Site  
6 has been contaminated by multiple parties. Further, the Regional Board is well aware of numerous  
7 discharging facilities within the immediate vicinity of the Site. Indeed, the Order states: "The data  
8 showed that VOCs likely have been released from several other facilities in the area, some of which  
9 are performing separate investigations under LARWQCB or other agency oversight." At the  
10 Regional Board's request, Petitioner submitted a list of potentially responsible parties to the  
11 Regional Board in July 2006. Attached hereto as Exhibit C is the list of PRPs. Finally, the  
12 Regional Board also is aware that there are contaminants under the Site that were never used on the  
13 Site and that, by their nature, could not have originated from the Site

14         3.       The Order imposes obligations solely on Gillette with respect to replacement water  
15 and groundwater restoration in the Olympic sub-basin even though COSM had previously informed  
16 the Petitioner and the Regional Board that it would not increase pumping from its Olympic field  
17 production wells for fear of pulling its own MTBE contamination to those wells. A memo from  
18 Joan Atkins, Acting Director of Environment and Public Works, to the Mayor and City Council on  
19 April 8, 2008, stated that a remedial action being proposed was necessary "to allow the City to  
20 begin extracting groundwater from the Olympic Well Field Sub Basin to providing drinking water  
21 to its residents." The memo further stated that the remedial action is "expected to continue at least  
22 through Fiscal Year 2013-2014." It is fundamentally unfair to require one party to provide  
23 replacement water for a water purveyor which itself has stated that its own contamination prevents  
24 further pumping until at least the end of Fiscal Year 2013-2014. Attached hereto as Exhibit D is a  
25 copy of the Atkins Memo.

26         4.       The Order compels treatment of quantities of groundwater in excess of lawful basin  
27 plan requirements.

28

1           Petitioner will, in a subsequent submittal, further elaborate on the procedural and  
2 substantive issues raised above.

3  
4           **V.     Petitioner is Aggrieved**

5           Petitioner is aggrieved in that the Order unlawfully compels Petitioner to: 1) assume all  
6 obligations, including legal, financial and technical responsibilities for a complex commingled  
7 plume for which it may be, if at all, only partially responsible; 2) pay punitive damages to COSM,  
8 a contributor to the commingled plume, giving COSM the double benefit of payment/alternative  
9 supply while in the long term receiving the benefit of remediation; and 3) violate the California  
10 Constitutional provisions prohibiting waste and unreasonable use of water. Further, the process  
11 relied upon for issuance of the Order is without support in the law and leaves Petitioner with no  
12 meaningful ability to evaluate an evidentiary record on which to seek review of the Order. The  
13 petition to the State Board is discretionary and, thus, affords the Regional Board the opportunity to  
14 create a record after the fact (and in support of its Order) and present it to the Superior Court as the  
15 first true record in this matter. For all of these reasons, Petitioner's legal and constitutional rights  
16 have been violated.

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18           **VI.    Petitioner's Request for Action by the State Board**

19           As stated above, Petitioner is simultaneously requesting that the Regional Board prepare a  
20 proper record in this matter by holding an evidentiary hearing joining other necessary parties. If  
21 the Regional Board accepts this request, Petitioner respectfully requests the State Board initially  
22 hold this Petition for Review in abeyance, thereby allowing time for appropriate Regional Board  
23 action. If the Regional Board does not grant Petitioner's request, then Petitioner requests the State  
24 Board to accept this Petition for Review and, after hearing and consideration, remand this matter  
25 directing the Regional Board to provide a full and impartial evidentiary hearing on the Order, after  
26 full opportunity for discovery, pursuant to the United States Constitution; the California  
27 Constitution; Water Code § 13320; 23 CCR § 648, *et seq.*; and Government Code § 11400, *et seq.*

28           Furthermore, Gillette respectfully requests a Stay of the Order pending State Board review

1 of the merits.

2

3 **VII. Statement of Points and Authorities**

4 Should Petitioner seek to have this Petition for Review reactivated because of the refusal by  
5 the Regional Board to grant Petitioner's requests, it reserves the right to submit a statement of  
6 points and authorities in support of this Petition.

7

8 **VIII. List of Interested Persons**

9 A list of "interested persons" is appended to the Order (Exhibit A).

10

11 **IX. Statement of Transmittal of Petition to the Regional Board**

12 A copy of this Petition was transmitted to the Executive Officer of the Regional Board on  
13 August 25, 2008.

14

15 **X. State of the Administrative Record**

16 Given that the CAO was issued without a hearing, the record of evidence in support of the  
17 Order is presumed to be only that evidence stated in the Order. To permit the Regional Board to  
18 pick and choose amongst the voluminous Regional Board file or from information provided by  
19 COSM after the fact, undermines the credibility of the Regional Board and the processes intended  
20 to provide transparency and consideration of environmental impacts. There is no formal  
21 administrative record that was prepared or reviewed by the Executive Officer prior to execution of  
22 the Order, and the improper recommendations and/or advice of prosecution staff to the Regional  
23 Board further taints and invalidates the provisions of this Order.

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**XI. Substantive Issues Raised Before Regional Board**

As described herein, Petitioner has been denied the opportunity to be heard on the substantive issues contained in the CAO, and while effort has been made to pursue amendments to the Order (through meeting with the Executive Officer and Staff), further requests will be made to obtain a hearing of critical procedural and substantive issues. Petitioner maintains it is without remedy unless the State Board grants this petition for review in concert with a Stay Order.

Dated: August 25, 2008

Respectfully submitted,

LINER YANKELEVITZ  
SUNSHINE & REGENSFREIF LLP

By: \_\_\_\_\_

Kevin C. Mayer  
Attorney for Petitioner  
THE GILLETTE COMPANY

**Exhibit A**



**California Regional Water Quality Control Board**  
**Los Angeles Region.**



Linda S. Adams  
 Cal/EPA Secretary

320 W. 4th Street, Suite 200, Los Angeles, California 90013  
 Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

Arnold Schwarzenegger  
 Governor

July 25, 2008

Certified Mail  
 Return Receipt Requested  
 Claim No. 7006 3450 0002 4641 8312

Dr. Branklyn Legall  
 The Gillette Company  
 37 A Street  
 Needham, MA 02492-9120

Dear Dr. Legall:

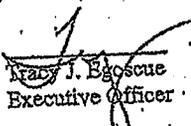
**CLEANUP AND ABATEMENT ORDER NO. R4-2008-0034 - FORMER GILLETTE PAPER MATE FACILITY, 1681 26<sup>TH</sup> STREET, SANTA MONICA, CALIFORNIA (FILE NO. 97-176, SLIC NO. 130E, SITE ID NO. 2043C00)**

Enclosed is Cleanup and Abatement Order (CAO) No. R4-2008-0034 directing Gillette Corporation, to assess, cleanup, and abate the effects of contamination discharged to soil and groundwater at the subject facility in Santa Monica, California. This Order is issued under section 13304 of the California Water Code. Should you fail to comply with any provision of this Order, you may be subject to further enforcement action, including injunction and civil monetary remedies, pursuant to appropriate California Water Code sections including, but not limited to, sections 13268, 13304, 13308, and 13350.

Pursuant to California Water Code section 13320, you may seek review of this Order by filing a petition with the State Water Resources Control Board (State Board). Such a petition must be received by the State Board, located at 1001, I Street, Sacramento, California 95814, within 30 days of the date of this Order.

If you have any questions regarding this matter, please contact Mr. Peter Raftery at (213) 576-6724 or Ms. Su Han, Unit Chief, at (213) 576-6735.

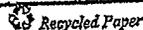
Sincerely,

  
 Tracy J. Egoscue  
 Executive Officer

Enclosures: Cleanup and Abatement Order No. R4-2008-0034

cc: List

**California Environmental Protection Agency**



Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

Dr. Franklyn Legall,  
The Gillette Company  
37 A Street  
CAO# RA-2008-0034

2

July 25, 2008

List

cc: U.S. Environmental Protection Agency, Region 9, Permits Branch (WTR-5)  
U.S. Army Corp of Engineers  
U.S. Department of the Interior, Fish and Wildlife Service  
California Department of Fish and Game, Region 5  
California Department of Health Services, Environmental Management Branch  
Mr. Jim Maughan, State Water Resources Control Board, Division of Water Quality  
Mr Kurt Souza, State Department of Health Services, Drinking Water Field Operations Branch  
Mr. Carl G. Brooks, South Coast Air Quality Management District  
Mr. Jeff Ogata, State Water Resources Control Board, Office of Chief Council  
Los Angeles County Department of Health Services, Environmental Health  
Alex P. Carlos, Regional Water Quality Control Board, Region 4  
Eddie Arslanian. (for Hines)  
Lisette Bauersachs, City of Santa Monica  
Nancy Beresky (for Red Bull North America, Inc.)  
David G. Dundas (for the Higgins Trusts)  
James Farrow, Komex  
Octavio Fernandez, MTV  
Andrew Gray, City of Santa Monica  
Stephen Johnson, LECG  
Hillel Kellerman, 1655 Property LLC  
Marc L. Luzatto, The Welk Group  
Douglas H. Metzler (for Hines)  
Bruce Smiley (for 1655 Property LLC)  
Craig Stewart, Geomatrix Consultants, Inc.  
Eileen Wintemute (for 1655 Property LLC)

*California Environmental Protection Agency*

 Recycled Paper

*Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.*

STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD  
LOS ANGELES REGION

CLEANUP AND ABATEMENT ORDER NO. R4-2008-0034

REQUIRING GILLETTE CORPORATION  
TO CLEANUP AND ABATE  
CONDITIONS OF SOIL, SOIL GAS, AND GROUND WATER POLLUTION  
CAUSED BY THE RELEASE OF VOLATILE ORGANIC COMPOUNDS  
AT 1681 26<sup>TH</sup> STREET,  
SANTA MONICA, CALIFORNIA.

(FILE NO. 97-176)

Cleanup and Abatement Order No. R4-2008-0034 requires Gillette Corporation (hereafter Discharger), to assess, monitor, and cleanup and abate the effects of volatile organic compounds (VOCs) and other contaminants of concern discharged to soil and groundwater at their former Paper Mate<sup>®</sup> facility at 1681 26<sup>th</sup> Street, Santa Monica, California.

The California Regional Water Quality Control Board, Los Angeles Region ("Regional Board" or "LARWQCB") herein finds:

INTRODUCTION

1. The former Paper Mate<sup>®</sup> facility (Site) is located on 10.5 acres of land immediately north of Olympic Blvd. between Stewart Street on the east and 26<sup>th</sup> Street to the west in Santa Monica (Figure 1). This area is designated as an Industrial Corridor by the City of Santa Monica. There are four main buildings (Building I through IV) covering approximately 295,000 square feet. The buildings are on two adjacent properties (Figure 2). The northern property is currently owned by the Higgins Trusts (Higgins) and the southern property is currently owned by Hines 26<sup>th</sup> Street LLC (Hines). Buildings I, III, and IV are on the Hines property and Building II is on the Higgins property. Prior to 2007, the Hines property was owned by the Stahl Trust (Stahl).
2. The Discharger began operations at the Site in 1957, when they leased Building I from Stahl. In 1968, Building II was leased from Higgins. This was followed, in 1972, with the leasing of Building III from Stahl and, in 1982, with the leasing of Building IV from Stahl. Operations ended in 2006.
3. Prior to the mid-1950s, the area near the site was used for clay quarrying and brick firing. Evidence of the brick operations is visible in a 1938 aerial photograph. After the clay quarries were depleted they were used as landfills by the Cities of Santa Monica and Beverly Hills. No records describing the material deposited in the landfill have been provided to the Regional Board. Regional Board staff believe, because these were city landfills, that the predominant material deposited in the landfills is local household and industrial solid waste. The approximate locations of the clay quarries/landfills are shown in Figure 3.
4. VOCs have been detected in the subsurface soil, soil vapor, and groundwater underlying the Gillette Site. In addition, VOCs have been detected in groundwater beneath Olympic Blvd., immediately south of the site.

July 25, 2008

PROPERTY OWNERSHIP AND LEASEHOLD INFORMATION

5. Based on the information submitted to the Regional Board, and clarified by Gillette, the Property has the following property ownership and leasehold history:
- a. Prior to the 1950's, industrial activities conducted near the Site were clay quarrying and brick manufacturing. Several of the resulting clay pits were subsequently sold to, leased by, or used by the City of Beverly Hills and the City of Santa Monica for disposal of locally derived city wastes. When full, these landfills were capped and built upon by light industry. Information reported by the United States Environmental Protection Agency (USEPA) indicates that the City of Santa Monica (City) Landfill No. 1 and the former Gladding McBean Dump underlie a portion the Site. Excavation of the pit used as City Landfill No. 1 began before 1938, and the pit was filled by 1975. Excavation of the pit used as the Gladding McBean Dump began in 1906, and the pit was filled by 1958.
  - b. In August 1956, Paper Mate® Manufacturing Company, a wholly owned subsidiary of Gillette, leased from Birch Investment, Inc. (Birch) the parcel of land on which Birch constructed Building I for Paper Mate®'s use. In 1957, Paper Mate® began the manufacture of ink and writing instruments at the Site.
  - c. In November 1967, Gillette leased an adjacent parcel of land (the Higgins Property) from the Higgins Brick and Tile Co. (later succeeded in interest by the Higgins Trusts) on which it constructed Building II for Gillette's use.
  - d. In May 1972, Gillette leased from the Stahl Trust (the successor to Birch) an additional parcel of land on which the Stahl Trust constructed Building III for Gillette's use.
  - e. In December 1980, Gillette and the Stahl Trust restated the 1956 and 1972 leases and added the land on which Building IV was located as well as Building IV itself, which was previously occupied by Dome Chemical (Miles Laboratory). The property on which Buildings I, III, and IV are located is hereinafter referred to as the "Stahl Property."
  - f. In 2000, Gillette sold the Paper Mate® business to the Sanford Division of Newell-Rubbermaid, Inc. (Newell-Rubbermaid). In December 2000, Gillette subleased the Stahl Property to Newell-Rubbermaid, and Gillette assigned the lease for the Higgins Property to Newell-Rubbermaid. Newell-Rubbermaid continued manufacturing operations similar to those previously conducted by Gillette at the Site.
  - g. In 2002, Newell-Rubbermaid discontinued operations in Building II.
  - h. In October 2005, the stock of The Gillette Company was acquired by The Procter & Gamble Company (P&G), and Gillette continued to operate at the site in its own name as a wholly-owned subsidiary of P&G.
  - i. As of the end of 2005, Newell-Rubbermaid had subleased the Higgins Property to Red Bull North America, Inc. (Red Bull). Red Bull subsequently renovated the building that previously served as Paper Mate Building II and relocated its North American headquarters to the renovated building in summer 2006.

- j. By June 2006, Newell-Rubbermaid had discontinued manufacturing operations on the Stahl Property.
- k. In summer 2006, Newell-Rubbermaid vacated all buildings on the Stahl Property. Gillette and Newell-Rubbermaid terminated the sublease of the Stahl Property on August 31, 2006.
- l. In July 2007, the Hines 26<sup>th</sup> Street LLC purchased the Stahl Property (hereinafter referred to as the "Hines Property") from the Stahl Trust. Gillette's current lease of the Hines property terminates in February 2013.

#### EVIDENCE OF CONTAMINATION AND BASIS FOR SECTION 13304 ORDER

#### 6. Chemical Usage and Storage During Manufacturing Operations at the Gillette Site

- a. **Building I** - In 1957, Paper Mate® began manufacturing operations in Building I. Operations included machining, electroplating, metal processing, degreasing, injection molding, and ink manufacturing. Hazardous materials and hazardous waste were also stored in Building I. Wastewater was generated, treated and discharged to the sanitary sewer. Figure 4 shows the locations of the various operations and facilities within Building I.

Machining included the manufacturing of pen parts from tungsten carbide balls, and brass and stainless steel rods. Chemicals used in machining included cutting oils, hydraulic fluids, and lubricants.

Electroplating consisted of chromium and nickel plating of metal parts. Plating chemicals included nickel chloride solution, nickel sulfide solution, chromates, acids, and bases.

Metal processing included electroless nickel plating of parts. Chemicals used for electroless nickel plating included nickel sulfide solution, nickel chloride solution, acids, bases, paint thinner, lubricants, and methanol.

Degreasing began in 1958, using an aboveground perchloroethene (PCE) vapor degreaser. Initially the PCE was stored in 55-gallon drums. In 1978, the drums were replaced by an aboveground tank. During vapor degreaser operations the PCE exhaust vapors were condensed and recycled on site using a system of condensers, separators, filters, and holding tanks. Recovered and treated water was discharged to the municipal sanitary sewer. In addition to PCE, oils and machining fluids were used in the area of the vapor degreaser. Use of the PCE vapor degreaser ended in 2000, when it was replaced by a liquefied carbon dioxide degreaser.

Injection molding began in 1957 and continued through the close of the Site in 2006. Chemicals used in the molding process included hydraulic oils, lubricants, greases, coolants, antifreeze, adhesives, primers, and paints. A cooling tower was used to cool the molding equipment. Waste water from the cooling tower was periodically discharged to a clarifier.

Available information from Gillette indicates that there are no written records regarding hazardous materials and waste management practices or the types of wastes generated at the facility prior to 1979. Gillette believes that hazardous materials were stored in 55-gallon drums in the building. Oils and waste oils were stored in drums outside until 1983, when underground waste tanks were installed. Hazardous materials were stored in the building until 1975, when a bermed and fenced hazardous materials storage area was built outdoors and the hazardous

materials were moved outside. In 1978, Gillette began installing eight underground storage tanks (USTs) and 17 aboveground storage tanks (ASTs) outside of Building I. The tanks were used for storing hazardous materials and hazardous waste. The eight USTs were removed in 1993. Nine ASTs remain near Building I.

Industrial wastewater from Building I was produced at the plating area, the vapor degreasing area, the nickel cavity operations area, the quality control laboratory, the cooling towers, and the boiler. Thereafter, the wastewater was treated, and discharged to clarifiers on the north and south sides of the building. The plating area discharge contained chromium and the chemicals used to treat the waste stream. Vapor degreasing operations in Building I ended in 2000. The nickel cavity operations area was moved to Building II in 1968. The clarifier on the north side of Building I received waste from the injection molding process and cooling tower blowdown water. These discharges continued until the facility ceased operating in 2006.

- b. **Building II** - Manufacturing operations began in Building II in 1968. Operations included extrusion of plastic pen parts, sintering and grinding, ink manufacturing, product assembly, nickel plating, and plant maintenance. Figure 5 shows the locations of the various operations and facilities within Building II.

Chemicals used included lubricants, cutting fluids, oils, propylene glycol, grease, dyes, 1,1,1-trichloroethane, naphtha, methyl ethyl ketone, isopropyl alcohol, methanol, hydraulic oil, sealants, metal polish, primers, and adhesives.

Hazardous materials were stored in designated areas within Building II until 1975. In 1975 they were moved outside to a bermed and fenced storage area near the southwest corner of Building II.

Aboveground storage tanks and USTs were installed at the north and east sides of Building II in 1968. These tanks were used to store hazardous materials and wastes. There were 28 ASTs and 27 USTs. All USTs were removed from the area of Building II between 1987 and 2002. All ASTs were removed from the area of Building II between 1983 and 2002.

Industrial wastewater was produced during ink manufacturing and nickel plating.

- c. **Building III** - This building was first occupied by Gillette in 1972. It was used for packaging, warehousing, and shipping products. Figure 6 shows the locations of the various operations and facilities within Building III.

In 1994, manufacturing began in the building. Manufacturing included extrusion, molding, and assembly. Facility maintenance also occurred in the building. Chemicals used included hydraulic oil, lubricants, grease, fluid coolant, antifreeze, adhesives, primers, paints, cutting fluids.

Hazardous materials were stored in designated areas within Building III. There were no ASTs or USTs near Building III. Industrial wastewater was not produced at Building III.

- d. **Building IV** - This building was first occupied by Gillette in 1982. It was used for general storage and product storage. Figure 7 shows the locations of the various operations and facilities within Building IV.

In 2002, operations ceased in Building II and equipment maintenance moved to Building IV.

Maintenance involved rinsing processing equipment brought from other parts of the building. The equipment was rinsed with water, glycols, and n-propanol. The rinse liquid was handled as industrial wastewater. Other chemicals used included adhesives, lubricants, grease, metal polish, and primers.

The hazardous materials noted above were stored in designated areas within Building IV. There were no ASTs or USTs near Building IV. Industrial wastewater was not produced at Building IV.

#### 7. Waste Releases Discovered During Subsurface Investigations at Gillette Site

- a. In 1986, Converse Environmental West discovered that one underground storage tank (UST) located near the northeast corner of Building II (T-10) and two USTs on the north side of Building II (T-11 and T-12) failed leak tests. As a result, Tri/Con Engineering conducted an investigation of both areas and discovered 1,1,1-trichloroethane (1,1,1-TCA), trichloroethene (TCE), tetrachloroethene (PCE), methyl ethyl ketone (MEK), methylene chloride, and 1,1-dichloroethene (1,1-DCE) in soil near tank T-10. (GeoSyntec, 2005, p. 40). In 1986, Converse Environmental West performed an investigation of USTs T-1 through T-6, T-17, and T-18 located on the south side of Building I. Petroleum hydrocarbons were found in one soil boring near tanks T-17 and T-18 at a concentration of approximately 1,400 parts per million. The presence of the petroleum compounds was attributed to the discovery of creosote-soaked railroad ties at a depth of three feet below ground surface. In letters dated August 18, 1993 and August 18, 1994, the City of Santa Monica approved closure of tanks T-17 and T-18 and tanks T-1 through T-6, respectively (City of Santa Monica, 1993; City of Santa Monica, 1994). All USTs were closed and removed.
- b. Between 1986 and 1990, Ecology & Environment performed several investigations of the Site under contract to the USEPA and concluded that the Site was eligible for placement on the National Priorities List but a "low priority." In 1990, Converse Environmental West concluded that there was no basis on which to consider the Site eligible for Hazard Ranking System scoring.
- c. In February 1992, Converse Environmental West submitted a report for the environmental assessment of former plating operations in Building I. The assessment discovered elevated nickel concentrations and low concentrations of cyanide in one boring located next to the southern wall of Building I. Converse concluded that no further assessment was necessary, and in April 1992 the City of Santa Monica concurred with Converse's conclusions.
- d. In May 1993, broken piping was discovered under USTs T-7, -8, -9, and -10 at the east end of Building II. Volatile organic compound-impacted soil was identified beneath and adjacent to these tanks. Tri/Con Engineering performed an investigation of the area surrounding these tanks in 1994 to further delineate this soil contamination. The LARWQCB approved the discontinuation of remedial activities in this area in August 1998.
- e. From August through October 2000, GeoSyntec conducted a baseline environmental assessment at the Site as part of a potential divestiture of the Paper Mate business. That assessment identified detections of VOCs in soil, soil vapor and groundwater that Gillette reported to the LARWQCB in a December 2000 letter.

- f. In December 2000, Gillette also notified the LARWQCB of plans to perform further characterization of site conditions, and in April 2001 Gillette submitted the Work Plan for Expanded Site Assessment.
- g. From February through March 2002, GeoSyntec implemented the expanded site assessment to further characterize the extent of VOCs in the subsurface at the Site. This study confirmed that soil gas and soil in the vicinity of Building I were impacted by VOCs.
- h. GeoSyntec implemented a quarterly groundwater monitoring program in March 2002. In 2005, this program was revised to include additional analytes.
- i. GeoSyntec conducted a Phase II investigation of both the uppermost groundwater depth interval (approximately 40 to 70 feet below ground surface [bgs], the "A zone") and a deeper groundwater depth interval (approximately 85 to 110 feet bgs, or "B zone") from July to August 2003. Seven new monitoring wells were installed at the Site. The investigation found maximum concentrations of PCE of 31,000 micrograms per liter ( $\mu\text{g/L}$ ) in the A zone and 13,000  $\mu\text{g/L}$  in the B zone. GeoSyntec concluded that the congruence of the A zone and B zone distributions of PCE suggested vertical migration of dissolved PCE in groundwater at the Site.
- j. Between February and August 2005, GeoSyntec performed additional investigation of the vadose zone to further characterize the VOC contamination near Building I. The study confirmed that the soil and soil gas in the vicinity of Building I were impacted by VOCs, with the highest concentrations of PCE detected near the former degreaser.
- k. From April to November 2006, GeoSyntec conducted further investigation of the vadose zone, A-zone groundwater and B-zone groundwater. This investigation found the following:
  - A. There were no significant widespread impacts to subsurface soil at the Site other than the previously-discovered VOC impacts. However, elevated metals contamination was found in several locations of apparently limited extent, associated with clarifiers and waste storage areas. The metals contamination is not fully assessed.
  - B. The highest PCB concentrations ( $>1,000 \mu\text{g/L}$ ) in soil vapor were found in areas surrounding the former vapor degreaser. The distribution of PCB, trichloroethene (TCE), and other related chemicals in soil vapor appeared to be located beneath the manufacturing area in Building I, extending to just north of the property boundary, the entire east-west length of Building I, and the western portion of Building III, and up to the property line to the south.
  - C. Hydropunch and monitoring well sampling of the groundwater suggested that the presence of VOCs in groundwater near the northern property boundary appeared to be continuous with the presence of VOCs in groundwater beneath Building I. Both A-zone groundwater and B-zone groundwater was shown to be impacted by VOCs, with a maximum PCB concentration of 21,000  $\mu\text{g/L}$  in the A zone and 11,000  $\mu\text{g/L}$  in the B zone.
  - D. Additional soil vapor sampling conducted to the south of the Site beneath Olympic Boulevard confirmed that significant concentrations of PCB and other related VOCs in the vadose zone do not extend beyond the southern property line.

- l. Investigation of B-zone and deeper groundwater was conducted by Geomatrix between March and May 2007. PCE concentrations in groundwater ranged from 4.9 to 16,000 µg/L, and TCE concentrations ranged from 4.5 to 6,000 µg/L. VOC concentrations were found primarily beneath Building I and were found to be relatively low under Building III. The investigation concluded that deeper groundwater assessment was needed to delineate the vertical extent of VOC impacts in groundwater at the Site.
  - m. In July 2007, Geomatrix performed a supplemental soil vapor assessment of localized VOC impacts in a small area on the western end of the Higgins Property, which had been discovered during previous assessment work. The new data confirmed that the VOCs were limited in extent.
  - n. From July to August 2007, Geomatrix conducted a coordinated groundwater monitoring event in order to assess groundwater flow and VOC concentrations in groundwater in the vicinity of the Site. A total of 73 monitoring wells at five participating sites in the area were included in the event, which included measurement of groundwater levels and collection and analysis of groundwater samples. Results of this coordinated monitoring event provided information regarding groundwater levels and hydraulic gradients in the area. The work also provided information regarding the presence and distribution of VOCs in groundwater along the Olympic Boulevard corridor. The data showed that VOCs likely have been released from several other facilities in the area, some of which are performing separate investigations under LARWQCB or other agency oversight.
  - o. In December 2007, Geomatrix submitted an assessment of geologic faulting in the vicinity of the Site and discussed its potential influence on groundwater flow. The report concluded that faults or other geologic heterogeneities in the area may influence groundwater levels and flow. The specific locations and characteristics of these features, and their influence on groundwater flow, are uncertain and not well constrained by available data.
  - p. Geomatrix is currently conducting an investigation to assess deeper groundwater below the B zone at the Site to further delineate the vertical extent of groundwater impacts. In March 2008, Geomatrix began off-site drilling to characterize the lateral and vertical extent of impacts to off-site groundwater.
8. Source Elimination and Remediation Status at Gillette Site
- a. In May 1982, City of Santa Monica workers discovered ink chunks in the sewer at manholes located at 1707 Stewart Street and at the intersection of Stewart Street and Nebraska Avenue. The ink reportedly was discharged from the old clarifier and into the City sewer during its removal and installation of the new clarifier. The ink precipitate did not mix with the fluids in the sewer line and was collected for disposal off-site.
  - b. In September 1982, City of Santa Monica inspectors documented leaking waste oil drums and stained soil in the hazardous materials/waste storage area on the south side of Building I. The resulting remedial action included the removal of the drums, excavation of impacted soil, paving of the containment area, and the installation of eight USTs for the storage of oil and waste oil.
  - c. In November 1983, a Building II sewer line leaked and released sewage and water-based ink. The line and approximately 55 tons of soil containing trace concentrations of raw sewage and water soluble ink were excavated and disposed of off-site.

- d. As a result of the investigation that followed the failed leak test of three USTs in 1986 described earlier, Tank T-10 was removed in September 1987 along with 41 cubic yards of affected soil. The City of Santa Monica subsequently approved reinstallation of the repaired tank.
- e. As a result of the discovery of petroleum hydrocarbons on the south side of Building I described earlier, an eight-by-ten foot pit was excavated down to a depth of five feet in the area around the boring with detectable concentrations in 1986. Samples from the bottom of the excavation had no detectable petroleum hydrocarbons. After the remediation was complete, the excavation was backfilled and covered with cement.
- f. In May 1993, Converse Environmental West discovered petroleum hydrocarbon-impacted soil during the removal of USTs T-1 through T-6 on the south side of Building I. As a result, the excavation to remove the tanks was expanded and an additional 101 tons of impacted soil was removed and disposed of off-site. In September 1993, Converse drilled four soil borings in the vicinity of these tanks and discovered petroleum hydrocarbons at concentrations up to 250 milligrams per kilogram (mg/kg). As a result, Converse conducted a bucket auger soil removal program and excavated approximately 20 tons of impacted soil based on a cleanup level of 100 mg/kg total recoverable petroleum hydrocarbons (TRPH) and total petroleum hydrocarbons (TPH) approved by the City of Santa Monica. The City granted closure of the former USTs T-1 through T-6 in August 1994.
- g. In February 1995, Tri/Con Engineering installed a soil vapor extraction (SVE) system in the vicinity of former USTs T-7 through T-10 east of Building II to address the VOC impacts to soil identified in May 1993 described earlier. The system was operated until May 1996. In September 1996, Tri/Con conducted post-remediation confirmation sampling which found non-detect levels of VOCs in soil at all sampled depths. The LARWQCB approved discontinuing use of the SVE system in August 1998.
- h. Although the City of Santa Monica concurred that no further assessment of the plating area in Building I was needed in April 1992, Converse Environmental West excavated approximately 4.6 cubic yards of soil to a depth of 5 feet near boring BH-2, for which soil samples had elevated levels of nickel and low concentrations of cyanide, in December 2001. None of the confirmation samples contained metals concentrations greater than those found in the background soil samples.
- i. In February 2005, GeoSyntec installed and pilot-tested six soil vapor extraction (SVE) wells in the area near Building I to provide input parameters necessary to facilitate design of an SVE remedial system.
- j. In March 2006, the LARWQCB approved the use of high-vacuum soil vapor extraction as an appropriate remedial technology to address vadose zone contamination at the Site.
- k. In May 2006, GZA submitted a conceptual design for the high-vacuum SVE system intended to address vadose zone impacts at the Site. The LARWQCB approved this design report in July 2006.
- l. In September 2006, Geomatrix submitted an Engineering Evaluation/Cost Analysis Report for an interim remedial measure ("IRM") for "hot spots" of VOCs in the A-zone groundwater at the Site. Geomatrix recommended the use of in-situ thermal treatment (ISTT).

- m. From February to March 2007, GZA conducted additional SVE pilot-testing to supplement data needed for the design of the contemplated SVE and ISTT systems at the Site.
- n. In March 2007, Geomatrix conducted hydraulic testing to obtain data needed for the design of the ISTT system.
- o. In June 2007, GZA submitted a design report for a single-well SVE system to remediate a localized vadose zone VOC impact on the Higgins Property. From September to October 2007, GZA installed the extraction well near the western side of Building II and extended lateral piping to Building III on the Hines Property, where the SVE treatment system was installed. The system is currently in operation.
- p. Upon further consideration and discussions with Gillette, the LARWQCB in December 2007 approved the use of ISTT as the final remedy for the vadose zone at the Site as well as the A-zone groundwater IRM. Gillette is currently in the process of selecting a vendor for the ISTT remedial work.

9. Summary of Findings from Subsurface Investigations

- a. Regional Board staff have reviewed and evaluated technical reports and records pertaining to the release, detection, and distribution of contaminants on the former Gillette site and its vicinity. The Discharger has stored, used, and/or released VOCs, including PCB, on the former Paper Mate® site. Elevated levels of PCB and other contaminants have been detected in soil vapor, soil, and groundwater, beneath the former Paper Mate® site, especially near the former PCB vapor degreaser and vicinity, in building L.
- b. The sources for the evidence summarized above include, but are not limited to:
  - A. Various technical reports and documents submitted by the Discharger or its representatives to Regional Board staff as of March 2008.
  - B. Site inspections, meetings, letters, electronic mails, and telephone communications between Regional Board staff and the Discharger or its representatives as of June 2008.

10. Summary of Current Conditions Requiring Cleanup and Abatement

Site contamination and the proximity of the Site to water supply wells used by the City of Santa Monica are the primary conditions requiring Site cleanup and abatement. Site contamination includes the presence of PCB and TCE in shallow groundwater beneath the Site at concentrations as high as 21,000 µg/L and 1,400 µg/L, respectively. Deep groundwater beneath the Site is contaminated with TCE at concentrations as high as 979 µg/L. There are significant sources of PCB and TCE in Site soil as indicated by detections of PCB and TCE in soil vapor at concentrations as high as 28,000 µg/L and 4,904 µg/L, respectively, and in soil at concentrations as high as 2,500,000 µg/kg and 170 µg/kg, respectively.

There are three City of Santa Monica water supply wells near the site. Well SM-7 is immediately south of the east end of the Site, well SM-4 is approximately 750 feet east of the Site, and well SM-3 is approximately 1600 feet east of the Site. Volatile organic compounds including PCB and TCE have been detected in the City of Santa Monica water supply wells.

11. Section 13304 of the California Water Code states, in part, that "Any person.... who has caused or permitted to cause....any waste to be discharged or deposited where it is, or probably will be discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, shall upon order of the Regional Board clean up such waste or abate the effects thereof or, in the case of threatened pollution or nuisance, take other necessary remedial action."
12. The State Water Resources Control Board (hereafter State Board) has adopted Resolution No. 92-49, the "Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under Water Code Section 13304." This Policy sets forth the policies and procedures to be used during an investigation or cleanup of a polluted site and requires that cleanup levels be consistent with State Board Resolution 68-16, the Statement of Policy with Respect to Maintaining High Quality of Waters in California. Resolution 92-49 and the Basin Plan establish the cleanup levels to be achieved. Resolution 92-49 requires the waste to be cleaned up to a background, or if that is not reasonable, to an alternative level that is the most stringent level that is economically and technically feasible in accordance with Title 23, California Code of Regulations (CCR) Section 2550.4. Any alternative cleanup level to background must (1) be consistent with the maximum benefit to the people of the state; (2) not unreasonably affect present and anticipated beneficial use of such water; and (3) not result in water quality less than that prescribed in the Basin Plan and applicable Water Quality Control Plans and Policies of the State Board.
13. The Regional Board adopted an amended "Water Quality Control Plan for the Coastal Watersheds of Los Angeles and Ventura Counties (Basin Plan)" on June 13, 1994. The Basin Plan designates beneficial uses and establishes water quality objectives (WQOs) for inland surface waters, ground waters, coastal waters and wetlands. Beneficial uses designated for the Santa Monica Basin groundwater include, but are not limited to municipal and domestic supply (MUN), industrial service supply (IND), industrial process supply (PROC), and agricultural supply (AGR).
14. The VOC wastes detected at the Property are not naturally occurring, and some are known as human carcinogens or potential carcinogens. These wastes impair or threaten to impair the beneficial uses of the groundwater.
15. Water Quality Objectives listed in the Basin Plan include numeric WQOs, [e.g., state drinking water maximum contaminant levels (MCLs)], and narrative WQOs, including the narrative toxicity objective and the narrative tastes and odors objective for surface and groundwater. The MCLs for VOCs in drinking water by the State of California Department of Public Health (DPH) and the United States Environmental Protection Agency (USEPA) are 5 µg/L for PCB, 5 µg/L for TCE, and 5 µg/L for 1,1-DCE, among others. The detected VOCs levels in the groundwater beneath the Gillette site and its vicinity have significantly exceeded the MCLs, thus impairing the beneficial uses of the groundwater.
16. The issuance of this Order is an enforcement action taken by the Regional Board, a regulatory agency, and as such is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 21000, et. seq.) in accordance with Section 15321, Chapter 3, Title 14, California Code of Regulations.

#### REQUIRED ACTIONS

IT IS HEREBY ORDERED, pursuant to California Water Code, Section 13304, that Gillette Corporation shall adequately assess, monitor, report, and cleanup and abate the effects of VOCs and other contaminants of concern discharged to soil and groundwater.

The Gillette Company  
Former Paper Mate® Facility, Santa Monica  
Cleanup and Abatement Order No. R4-2008-0034

Compliance with this order shall include, but not be limited to completing the requirements listed below.  
The Dischargers shall:

1. **Develop and update a Site Conceptual Model:** The Site Conceptual Model (SCM) should include a written presentation with graphic illustrations of the release scenario and the dynamic distribution of wastes from the former Gillette site and vicinity. You shall construct the SCM based on actual data collected from the former Gillette site and any other nearby sites that add to the accuracy of the SCM.

The SCM shall be updated, as new information becomes available. Updates to the SCM should be included in all future technical reports submitted. The first SCM is due no later than October 31, 2008.

2. **Delineate Contamination in the Unsaturated and Saturated Zone:** Completely delineate the extent of soil, soil vapor, and groundwater contamination caused by the release of VOCs and other contaminants of concern from the former Gillette site. You are currently conducting groundwater and soil assessment under the Regional Board approved December 20, 2007, technical report titled *Second Addendum to Work Plan for Off-Site Groundwater Investigation*. If ongoing reinterpretation of new assessment data derived from the tasks described in the Work Plan suggest that modification or expansion of the tasks proposed in the Work Plan is necessary for complete assessment, one or more Work Plan addendums shall be submitted to the Regional Board to provide for full assessment.
3. **Conduct Groundwater Monitoring:** Continue the quarterly groundwater monitoring program. As new wells are installed they are to be incorporated into the program. The quarterly groundwater monitoring reports shall be submitted according to the following schedule with the next report due by July 31, 2008.

<u>Quarter</u>	<u>Report Due Date</u>
January 1 - March 31	April 30 <sup>th</sup>
April 1 - June 30	July 31 <sup>st</sup>
July 1 - September 30	October 31 <sup>st</sup>
October 1 - December 31	January 31 <sup>st</sup>

4. **Conduct Remedial Action:** Initiate a phased cleanup and abatement program with the cleanup of any remaining soil, soil vapor, and groundwater contamination and the abatement of threatened beneficial uses of water and pollution sources as highest priority. Specifically, you shall:
  - a. Remediate the vadose zone and shallow aquifer on site associated with contaminant releases at Buildings I and III, removing the primary sources of ongoing groundwater degradation. Prepare Final Detailed In Situ Thermal Treatment Remedial Action Plan (RAP) for Buildings I and III area, include detailed plan for remediation of any shallow contamination that will not be effectively addressed by ISTT, including proposed cleanup goals and submit to Regional Board by August 30, 2008. Implement the RAP for the Buildings I and III area by September 30, 2008. The vadose zone and shallow aquifer remediation system must be installed and fully operating at the Building I and III area by April 30, 2009.
  - b. Continue soil remediation with soil vapor extraction at Building II with required monitoring and reporting. Remediation confirmation soil and vapor sampling work plan due July 31, 2009. Report on results of soil remediation confirmation sampling due October 31, 2009.

- c. Develop a comprehensive Remedial Action Plan (RAP) for all remaining on and offsite groundwater contamination originating from the Site and submit it for Regional Board review and approval by December 31, 2009. The RAP shall include, at a minimum:
- A. A program for preventing the continuing spread of Gillette's existing contaminant plumes in groundwater;
  - B. A program for restoring that portion of the City of Santa Monica's water supply made unusable as a result of chemicals released at the Gillette site.
  - C. Cleanup goals, and a protocol and schedule to reach them. The cleanup goals shall be based on:
    - a. Soil cleanup levels set forth in the Regional Board's *Interim Site Assessment and Cleanup Guidebook, May 1996*.
    - b. Human health protection levels set forth in the current *USEPA Preliminary Remediation Goals*.
    - c. Protection from vapor intrusion and protection of indoor air quality based on the California Environmental Protection Agency's January 2005 (or later version) *Use of Human Health Screening Levels (CHHSLs) in Evaluation of Contaminated Properties*. Soil vapor sampling requirements are stated in the Department of Toxic Substances Control (DTSC) and Regional Board January 2003 *Advisory - Active Soil Gas Investigations*, and the DTSC February 2005 (or latest version) *Guidance for the Evaluation and Mitigation of Subsurface Vapor Intrusion to Indoor Air*.
    - d. Groundwater cleanup goals shall not exceed California's Maximum Contaminant Levels (MCLs); Action Levels for drinking water as established by the State Department of Public Health, Ocean Plan, or the California Toxic Rules, at a point of compliance approved by the Regional Board.
    - e. Pending completion of contaminant assessment, periodic monitoring and full implementation of the approved RAP, Regional Board staff may consider revised cleanup goals in accordance with State Policies as below:

"Antidegradation Policy (State Board Resolution No. 68-16) which requires attainment of background levels of water quality, or the highest level of water quality that is reasonable in the event that background levels cannot be restored. Cleanup levels other than background must be consistent with the maximum beneficial use of water, and not result in exceedance of water quality objectives in the *Basin Plan*.

"Policies and Procedures for Investigation and Cleanup and Abatement of Discharges Under Water Code Section 13304" (State Board Resolution No. 92-49) which sets forth criteria to consider for those cases of pollution wherein restoration of water quality to background levels is not reasonable.
  - D. Quarterly remediation progress reports shall be submitted to this Regional Board. The quarterly remediation progress reports shall document all performance data including, but not limited to, flow rates, and VOCs concentrations at system influent and effluent, and at

individual wells, total operational time, total VOCs mass removal, among others. The results obtained during the previous quarter shall be submitted according to the following schedule with the next report due by October 31, 2008.

<u>Quarter</u>	<u>Report Due Date</u>
January 1 - March 31	April 30 <sup>th</sup>
April 1 - June 30	July 31 <sup>st</sup>
July 1 - September 30	October 31 <sup>st</sup>
October 1 - December 31	January 31 <sup>st</sup>

5. **Contractor/Consultant Qualification:** A California licensed professional civil engineer or geologist, or a certified engineering geologist or hydrogeologist shall conduct or direct the subsurface investigation and cleanup program. All technical documents shall be signed by and stamped with the seal of the above-mentioned qualified professionals.

6. **Involvement of the Public:** Encourage public participation. Continue to implement the March 2, 2006, *Public Participation Plan*, with the goal of providing the stakeholders with:

- a. Information, appropriately targeted to the literacy and translational needs of the community, about contamination investigation and remedial activities; and
- b. Periodic, meaningful opportunities to comment upon and to influence investigation and cleanup activities.

Public participation activities shall coincide with key decision making points throughout the process as specified or as directed by the Executive Officer.

7. The Regional Board's authorized representative(s) shall be allowed:

- a. Entry upon premises where a regulated facility or activity is located, conducted, or where records are stored, under the conditions of this Order;
- b. Access to copy any records that are stored under the conditions of this Order;
- c. Access to inspect any facility, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order; and
- d. The right to photograph, sample, and monitor the Site for the purpose of ensuring compliance with this Order, or as otherwise authorized by the California Water Code.

8. The Discharger shall submit 30-day advance notice to the Regional Board of any planned changes in name, ownership, or control of the facility; and shall provide 30-day advance notice of any planned physical changes to the Facility that may affect compliance with this Order. In the event of a change in ownership or operator, the Discharger also shall provide 30-day advance notice, by letter, to the succeeding owner/operator of the existence of this Order, and shall submit a copy of this advance notice to the Regional Board.

9. Abandonment of any groundwater well(s) at the site must be approved by and reported to the Executive Officer at least 14 days in advance. Any groundwater wells removed must be replaced within a reasonable time, at a location approved by the Executive Officer. With written justification, the Executive Officer may approve of the abandonment of groundwater wells without replacement. When a well is removed, all work shall be completed in accordance with California Department of Water Resources Bulletin 74-90, "California Well Standards," Monitoring Well Standards Chapter, Part III, Sections 16-19.

#### GENERAL PROVISIONS

The following provisions shall apply:

1. This Order requires investigation and cleanup of the site in compliance with the Water Code, the applicable Basin Plan, Resolution 92-49, and other applicable plans, policies, and regulations.
2. If the Discharger fails to comply with this Order, the Executive Officer may request the Attorney General to petition the superior court for the issuance of an injunction.
3. If the Discharger violates this Order, the Dischargers may be liable civilly in a monetary amount provided by the California Water Code.
4. Any person affected by this action of the Regional Board may petition the State Board to review the action in accordance with Title 23 CCR Sections 2050-2068. The regulations may be provided upon request and are available at [www.waterboards.ca.gov](http://www.waterboards.ca.gov). The State Board must receive the petition within 30 days of the date of this Order.
5. This Order is not intended to permit or allow the Discharger to cease any work required by any other Order issued by this Regional Board, nor shall it be used as a reason to stop or redirect any investigation or cleanup or remediation programs ordered by this Board or any other agency. Furthermore, this Order does not exempt the Discharger from compliance with any other laws, regulations, or ordinances which may be applicable, nor does it legalize these waste treatment and disposal facilities, and it leaves unaffected any further restrictions on those facilities which may be contained in other statutes or required by other agencies.
7. This Order may be rescinded or modified upon the occurrence of any of the following:
  - a. A determination by the Executive Officer or the Regional Board that an additional discharger has been identified to be responsible for or to have contributed to the contamination plume in the groundwater beneath the former Gillette site and its vicinity;
  - b. A determination by the Executive Officer that the level of contaminant impact beneath the former Gillette site and its vicinity has been reduced to all applicable cleanup levels.
8. This Order is not intended to interfere with any rights a discharger may have if it determines in the future that other parties have responsibility for the contamination of the VOC plume in the groundwater beneath the former Gillette site and its vicinity.