



# PCAG Perchlorate Community Advisory Group

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March 24, 2005

Mr. Arthur G. Baggett, Chair  
State Water Resources Control Board  
1001 I Street, 24<sup>th</sup> Floor [95814]  
P.O. Box 100  
Sacramento, CA 95812-0100

RE: Perchlorate Community Advisory Group response to State Board March 1<sup>st</sup>, 2005 draft response to the Olin Corporation and Standard Fusee, Inc. petition regarding the Central Coast Region Cleanup or Abatement Order No. R4-2004-0101

Dear Mr. Baggett:

The Perchlorate Community Advisory Group (PCAG) is writing this letter in response to the State Water Resources Control Board (SB) March 1<sup>st</sup>, 2005 draft letter to the Olin/Standard Fusee (Petitioners) petition of the Central Coast Region (RB) Cleanup or Abatement Order (CAO) No. R4-2004-0101. PCAG appreciates this opportunity for interested parties, including residents of our impacted community, to provide input prior to the SB issuing a final decision.

**PCAG RESPONSE:** The PCAG has reviewed all reports concerning the RB Alternative Water CAO, including the SB March 1<sup>st</sup>, 2005 draft response to the Petitioners petition. With all due respect, we are very disappointed and do not agree with the SB findings as reported in this draft response and strongly request that you re-consider your position. First, we submit that the SB was incorrect when it determined that the RB abused its discretion. Second, we contend that the SB position is inappropriately more protective of the groundwater than it is of the people directly impacted by the Perchlorate contamination.

1. PCAG submits that it is totally inappropriate for the SB to state “We agree” in response to Olin’s contention “that the Central Coast Water Board abused its discretion by requiring continued water replacement service for wells with Perchlorate detections based upon a 4ppb trigger level rather than the final PHG of 6ppb adopted by OEHHA”. Based on our interpretation of Water Code 13304, the Central Coast RB did not abuse its discretion, as anyone in the trenches with us is very much aware. PCAG contends

that Water Code 13304 and State Board Resolution 92-49 do in fact support the RB Alternative Water CAO regarding bottled water tiered requirements.

The Water Code 13304 clearly states the following:

- a) Regional Water Quality Control Boards have the authority to require alternative water supplies pursuant to a cleanup.
- b) The alternative water provided “shall meet all federal, state, and local drinking water standards ...”
  - i. PCAG submits that the RB CAO meets the intent of the Code since there is no federal or state ‘standard’ and the CAO is even more protective than the new PHG.
  - ii. PCAG thereby contends that the RB has the discretion to set the tiered requirements contained in the CAO.
- c) The Water Code continues to state that the alternative water provided also “... shall have comparable quality to that pumped by the public water system or private well owner prior to the discharge of waste.”
  - i. PCAG notes, and is concerned about, the fact that each time the Water Code 13304 was referenced in this draft report, the SB inappropriately dismissed this part of the Code. The SB simply stated that ‘comparable quality’ was not defined.
  - ii. PCAG submits that the intent of this statement needs no definition; it is clear as written.
  - iii. Also the State Board Resolution 92-49 states the following in bold type: “This section authorized Regional Water Boards to require ... [interim water delivery] to background conditions (i.e., the water quality that existed before the discharge)”.
  - iv. PCAG contends that the definition of comparable quality is obvious and very clear.
  - v. PCAG also supports the CAO because it requires ‘comparative level’ alternative water for contaminated well water recipients. This is appropriate as the level of Perchlorate contamination outside the plume area is not 6ppb or higher. In fact, the contamination plume is surrounded by wells that show no trace at all. As a result, while the CAO tiered approach protects the health and safety of community residents; it is also considerate of the financial responsibilities of the petitioners.

PCAG thereby submits that the above findings regarding the Water Code 13304 and Resolution 92-49 support the RB CAO requirements as written. The RB, in our view, appropriately exercised their charge and did not abuse their discretion.

2. PCAG submits that the State Board response is inappropriately more protective of groundwater than of people negatively impacted by the Perchlorate contamination. SB positions are as follows:

- a) Groundwater – The SB supports background (comparable quality) level requirements for groundwater clean up. This level would definitely be well below 6ppb.
- b) Alternative Water delivery – The SB states that well water recipients with contaminations below 6ppb should not receive free delivered water.

Once again, refer to the second part of the Water Code; alternative water “shall be of comparable quality to that pumped by the ... private well owner prior to the discharge of waste”. PCAG submits that the level of Perchlorate contamination outside the plume area is not 6ppb or higher. In fact, the contamination plume is surrounded by wells that show no trace at all.

Therefore, PCAG submits that the SB position is inconsistently protective and unacceptable to this community. We respectfully request that you reconsider your priorities. PCAG supports the RB CAO as written.

**RB ALTERNATIVE WATER CAO:** PCAG submits that the RB CAO is in the best interest of all parties, including the Petitioners. The CAO requirements are protective of both the health and safety of contaminated well water recipients and, at the same time, protective of the financial responsibilities of the Petitioners. As a result, we recommend that the Alternative Water CAO remain as written.

If the SB requires termination of alternative water for wells with detections below 6ppb, a great deal of additional, frequent monitoring of over 650 wells will most likely have to be required in order to make sure water recipients remain in the safe range as identified by OEHHA. In our view, this would be unnecessarily a great deal more costly to the Petitioners and take valuable time, energy and money that can better be spent on timely long-term clean up design and implementation.

Additional data is needed to provide the basis for plume migration control and long-term clean up work plan development and implementation, which we desperately need to move forward in a timely manner. If residents continue to receive alternative water as designed in the CAO, community residents will have appropriate protection. This will also allow the time, energy and money associated with additional well monitoring to be appropriately re-directed toward plume definition refinement and groundwater characterization.

PCAG believes it is also important to point out that our geographic area water table is dramatically affected by the amount of rainfall. Perchlorate detections vary significantly from season to season, as does our water table. The last two years have been very ‘wet’ years and therefore we may be receiving lower contamination data than would exist in ‘dry’ years. We believe this to be due to the fact that many wells are multi-screened and thereby when the water table is high, waters from unaffected aquifers may dilute the Perchlorate contamination. ‘Dry’ Years may cause a much higher level of Perchlorate contamination. Until more data is acquired on this topic and long-term clean up is implemented, we must provide the appropriate level of protection for residents. As a result, PCAG supports continued free delivered water, on a tiered schedule, to all residents as outlined in the RB CAO.

**IN CONCLUSION:** We submit that the State Board should encourage all Regional Boards across the State to emulate the professionalism of the Central Coast Regional Board. During the last two years, we have had the opportunity to regularly work with our Central Coast Regional Water Control Board and Staff. We have found them to be professional, impartial, dedicated and persistent. They actively listen and work responsibly with all stakeholders, are responsive, and carefully adhere to water policies.

Under their leadership, all stakeholders have stayed at the table, working together constructively to find timely solutions for the remediation of the Llagas Subbasin Perchlorate contamination issue. PCAG holds education, active listening and open communication between all involved parties as the keys to timely, successful problem solving. We are fortunate to have a RB that supports this philosophy.

Once again, PCAG thanks the State Board for the opportunity to provide input prior to the SB final petition response. We request that you seriously consider this input which comes from community residents; those most deeply involved and affected on a daily basis by this contamination issue.

As you prepare your final response to the Olin petition, we trust that it will be reflective of the best interest of our community and supportative of the Central Coast Regional Board Alternative Water CAO.

Sincerely,

Sylvia Hamilton  
PCAG Chair

PCAG Sub-Committee:

Sylvia Hamilton – San Martin  
Bob Cerruti – San Martin  
Evelyn Heinrichs – Morgan Hill  
Robert Wood – Morgan Hill  
Matt Crawford – Gilroy

cc: PCAG Roster