California Regional Water Quality Control Board
Santa Ana Region

Winston H. Hickox
Secretary for Environmental Protection

Internet Address: http://www.swrcb.ca.gov/rwqcb8
3737 Main Street, Suite 500, Riverside, California 92501-3348
Phone (909) 782-4130 - FAX (909) 781-6288

Gray Davis
Governor

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website at www.swrcb.ca.gov/rwqcb8.

November 19, 2002

To All Interested Parties

RE: DECISION OF THE BOARD IN THE MATTER OF PETITIONS FILED BY GOODRICH CORPORATION AND KWIKSET CORORATION FOR REVIEW OF CLEANUP AND ABATEMENT ORDER NO. R8-2002-0051

Attached is the written decision of the Board in the above-referenced matter, as approved by both the Chair of the Regional Board, Carole Beswick, and the Board Counsel in this matter, Ted Cobb.

Any questions concerning this decision should be directed to Ted Cobb at 916-341-5171.

Sincerely,

Gerard J. Thibeault
Executive Officer
Santa Ana Regional Water Quality Control Board

Attachment

cc. Regional Board

October 25, 2002

Agenda Item 6: Petitions Filed by Goodrich Corporation and Kwikset Corporation for Review of Cleanup and Abatement Order R8-2002-0051.

Decision of the Board: This matter came to the Regional Board for further deliberation on a decision made in closed session on September 13,2002. This was necessary because of a defect in the notice of the September 13, 2002 meeting. The notice did not provide for the closed session so none should have been held. On advice of counsel, the Regional Board Chair decided to bring the matter back at the October 25, 2002 Board meeting to consider all evidence and argument that was received on September 13, 2002. In conformance with the public notice for the October 25, 2002 meeting, no further evidence or testimony was received from any party or interested person prior to deliberation by the Regional Board. Board members Solario and Withers did not take part as neither had fully participated in the September 13, 2002 session.

The Chair summarized the main points that were the subject of consideration during the closed session. Those points were:

- the Board was concerned about the time involved in solving the problem of perchlorate in the groundwater of the Rialto/Colton area and believed that pursuing the enforcement of the cleanup and abatement order, as drafted, would result in unnecessary delay in administrative appeals and litigation;

- the Board foresaw extensive delays while communities were losing access to drinking water and determined that addressing the problem as quickly as possible by cleaning up the contaminated wells or providing alternative water sources was of greatest importance;

- one of the companies named in the cleanup and abatement order disputed whether it was a legal successor in interest to the original responsible party;

- the other company was willing to take responsibility for a portion of the contamination but not for the whole problem;

- a non-adversarial approach was more likely to obtain some cooperation from those two companies;

- the Board did not believe that there had been a good characterization of the plume and wanted further investigation;

- the Board wanted to find incentives to encourage timely participation by all potentially responsible parties; and

- the Board thought that using Water Code 13267 would bring to the table more potentially responsible parties.

Additional Board member comments on October 25, 2002, indicated the following points:

- the Board members reaffirmed the summary made by the Chair as the basis for their decision;

- many other potentially responsible parties were mentioned during the presentations of September 13, 2002; it is important to broaden the investigation to bring in those other potentially responsible parties;

- it was not reasonable to focus on two parties when there is evidence that many others might bear some responsibility;

- the practical approach required broadening the order to include all potentially responsible parties; and

- sensitive land uses in the area make it very important that timely action take place.

Following that discussion, the Board adopted a motion:

1. The Board rescinds the cleanup and abatement order (No. R8-2002-0051) issued by the Executive Officer on June 6, 2002.

2. The Board directs the Executive Officer to issue Water Code 13267 letters to all potentially responsible parties. The Board further directs the Executive Officer to require those subject to the 13267 letters to submit their plans for addressing the issues involved in this investigation as quickly as possible.

(Motion by Beswick; second by Ruh; adopted unanimously 6-0)

The Board also asked Staff to use innovative approaches to find funding for well-head treatment and supplemental water sources and to be creative in approaching the potentially responsible parties to maximize their participation.