



# California Regional Water Quality Control Board

## San Diego Region



John H. Hickox  
Secretary for  
Environmental  
Protection

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Gray Davis  
Governor

April 10, 2003

FILE: 06-0215.02

Ms. Patricia Beard  
City of Chula Vista  
Community Development Department  
276 Fourth Avenue  
Chula Vista, CA 91910

Dear Ms. Beard:

**RE: ADOPTION OF RESOLUTION NO. R9-2003-0139  
AUTHORIZATION FOR THE EXECUTIVE OFFICER TO  
EXECUTE A SITE REMEDIATION AGREEMENT WITH  
THE CITY OF CHULA VISTA REDEVELOPMENT AGENCY FOR  
CLEANUP AND ABATEMENT OF GROUNDWATER POLLUTION  
AT THE FORMER OMAR RENDERING SITE, SAN DIEGO COUNTY**

On April 9, 2003, the California Regional Water Quality Control Board, San Diego Region (RWQCB) adopted Tentative Resolution No. R9-2003-0139. Enclosed with this letter is a final copy of Resolution No. R9-2003-0139, "Authorization for the Executive Officer to Execute a Site Remediation Agreement with the City of Chula Vista Redevelopment Agency for Cleanup and Abatement of Groundwater Pollution at the Former Omar Rendering Site, San Diego County".

Should you have any questions concerning the above matter, please contact Mr. Brian McDaniel at (858) 627-3927 or by email at [mcdab@rb9.swrcb.ca.gov](mailto:mcdab@rb9.swrcb.ca.gov).

Sincerely,

  
JOHN H. ROBERTUS  
Executive Officer

JHR:jro:bkm

Enclosure: Resolution R9-2003-0139

cc: Mr. Ray Hendry  
Otay Mesa Ventures II, LLC  
141 Union Boulevard, Suite 330  
Lakewood, CO 80228

*California Environmental Protection Agency*

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CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION

RESOLUTION NO. R9-2003-0139

AUTHORIZATION FOR THE EXECUTIVE OFFICER TO  
EXECUTE A SITE REMEDIATION AGREEMENT WITH  
THE CITY OF CHULA VISTA REDEVELOPMENT AGENCY FOR  
CLEANUP AND ABATEMENT OF GROUNDWATER POLLUTION  
AT THE FORMER OMAR RENDERING SITE  
SAN DIEGO COUNTY

The California Regional Water Quality Control Board, San Diego Region (hereinafter RWQCB) finds that:

1. Discharges of hazardous wastes for treatment, storage, and disposal at the Omar Rendering facility, located in the Otay River Valley in Chula Vista, San Diego County, caused conditions of pollution in ground water underlying the site, and left residual hazardous wastes in soil at the site. Existing and threatened conditions of contamination have been the subject of Cleanup and Abatement Orders since March 27, 2003. Residual hazardous wastes and excavated soil containing hazardous waste constituents were discharged to a Class I landfill at the site. That landfill was closed in accordance with waste discharge requirements contained in Order No. 97-40.
2. On May 3, 2002, Otay Mesa Ventures I, L.L.C., a subsidiary of Landbank Groups, Inc., acquired ownership of the former Omar Rendering located at 4826 Otay Valley Road in Chula Vista, A.K.A. ("*the Site*"). The Site is a 40-acre parcel that includes a closed Class I landfill.
3. Otay Mesa Ventures II, L.L.C., has assumed responsibility for the cleanup and abatement of conditions of pollution or nuisance caused by past discharges of wastes at the Site.
4. Cleanup and Abatement Order No. R9-2003-0080 requires Otay Mesa Ventures II, L.L.C. to cleanup wastes at the Site and abate existing and threatened conditions of environmental pollution caused by past discharges of wastes at the Site.
5. Otay Mesa Ventures II, L.L.C. has agreed to perform post-closure maintenance and monitoring of the closed Class I waste management unit at the Site, pursuant to waste discharge requirements contained in Order 97-40.
6. Otay Mesa Ventures II, L.L.C. has offered to provide the RWQCB with assurances of financial responsibility for the post-closure maintenance and

- monitoring of the waste management unit; for the estimated cost of cleanup and abatement of conditions of pollution or nuisance associated with future leakage of waste from the closed Class I landfill as well as for ongoing remedial action for residual pollution caused by past discharges of wastes at the Site.
7. The City of Chula Vista Redevelopment Agency has agreed to act as the "Redevelopment Agency", pursuant to provisions of Health and Safety Code §§ 33459 *et seq* (A.K.A. the Polanco Redevelopment Act), and shall cause the preparation of remedial action plans (RAPs) and the implementation of cleanup and abatement of environmental pollution caused by past discharges of waste at the Site.
  8. The City of Chula Vista has identified a prospective purchaser who is not currently a responsible discharger under Water Code § 13304, and the prospective purchaser/developer has agreed to the following conditions:
    - a. The prospective purchaser/developer shall not undertake any land use or development project at Site that could exacerbate either the discharge of hazardous substances from the Site to waters of the state or any known or threatened condition of pollution or nuisance associated with prior discharge or deposit of petroleum hydrocarbon waste at or from Site.
    - b. The prospective purchaser/developer shall not unreasonably prevent, delay, impair, or interfere with current or prospective investigation or cleanup and abatement activities, if any but shall rather cooperate to achieve the goals of the RAP.
    - c. The prospective purchaser/developer shall allow the RWQCB, its employees and agents, access to the Site during normal business hours or upon request to investigate the conditions described in the conceptual RAP, Cleanup and Abatement Order or Waste Discharge Requirements, that could affect water quality, to monitor ground water, and to obtain samples of soil and ground water at this Site.
    - d. The prospective purchaser/developer acknowledges responsibility for cleanup and abatement of any discharge or deposit of waste, including hazardous substances, at or from Site as a result of the prospective purchaser's/developer's future activities at the Site that causes or threatens to cause conditions of pollution or nuisance.
  9. Otay Mesa Ventures II has proffered a draft Corporate Guaranty in the amount of \$1 million by Landbank Groups, Inc. as an interim assurance of financial responsibility pending negotiation of alternative assurances for the post-closure

maintenance period and the duration of any cleanup and abatement associated with discharges at the Site.

10. It is not against the public interest to enter into a Site Remediation Agreement providing for the City of Chula Vista to cause Otay Mesa Ventures II, L.L.C. to undertake remedial action, including post-closure maintenance and monitoring for the closed Class I landfill, at the Site under the provision of Health and Safety Code Section 33459, *et seq.*, and to waive liability of the prospective purchaser for cleanup and abatement of environmental pollution from past discharges of wastes at the Site.
11. Notice of the proposal for the RWQCB to enter into a Site Remediation Agreement.

THEREFORE BE IT RESOLVED that

1. The Executive Officer is authorized to execute a Site Remediation Agreement substantially similar to the draft Site Remediation Agreement attached to this Resolution as Attachment 1 with the City of Chula Vista to implement the provisions of Health and Safety Code §§ 33549 *et seq.* for the cleanup and abatement of environmental pollution of past discharges of wastes at the former Omar Rendering site.

I, John H. Robertus, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board San Diego Region on April 9, 2003.

  
John H. Robertus  
Executive Officer