
Lahontan Regional Water Quality Control Board

November 19, 2013

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via private e-mail

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Re: Decision on Requests by PG&E and the Members of the Hinkley Community to Change Whole House Replacement Water Program and Plume Delineation Requirements

After careful consideration of the requests submitted by the Pacific Gas and Electric Company (PG&E) and members of the public to change the requirements of the Whole House Replacement Water Program (“WHRW Program”), and after review of the comments received in response to those requests, I have decided not to make changes to the existing requirements at this time.

There are several actions by other entities within the next year that have the potential to affect the WHRW Program, including the issuance of the maximum contaminant level (MCL) for hexavalent chromium by the California Department of Public Health (DPH), also referred to as the “drinking water standard”, and a review by the State Water Resources Control Board (State Board) of PG&E’s petition of Cleanup and Abatement Order (CAO) 2008-0002-A4. This CAO required PG&E to conform to specific mapping protocols to delineate the boundary of its plume of hexavalent chromium in Hinkley. This means that actions outside of our control have the potential to change the existing requirements within the next nine to twelve months. With impending potential changes to the existing requirements, I have determined that modifications to the WHRW Program and the plume delineations requirements at this time would introduce additional confusion and uncertainty. If I were to make changes today, by the time that modifications to the existing requirements are implemented, those changes would undoubtedly be revised again based upon the State Board and the DPH actions.

For example, on November 4, 2013, the State Board notified the Lahontan Regional Water Quality Control Board (Water Board) that it will be taking up the petition filed by PG&E on the CAO. The petition challenges the way that PG&E is required to draw the plume and the requirement to continue to install monitoring wells to delineate the plume boundary. The State Board could modify the Water Board's Order or require the Water Board to reconsider the requirements for how the plume is delineated based upon criteria it sets forth, which could affect how the plume is drawn and, therefore, who would be eligible for the WHRW Program.

Similarly, a final decision by the DPH that sets the drinking water standard for hexavalent chromium at a level above what is in people's wells in Hinkley would limit the requirements of the WHRW Order. The current WHRW Order recognizes the legal limits on the Water Board to require replacement water, and states that PG&E is only required to provide WHRW to those wells containing hexavalent chromium at levels above the MCL levels established by DPH. Therefore, once the DPH sets the final drinking water standard, the Water Board could not require replacement water for those wells whose levels of hexavalent chromium does not exceed drinking water standard.

In leaving the current requirements in place, I recognize that there will continue to be a lot of concern in how the plume is drawn and how the WHRW Program is implemented. Because PG&E has offered WHRW systems and property buyout opportunities to some Hinkley residents, the location of the plume has had financial and social repercussions for PG&E and the community. Changing the requirements today, only to have those requirements changed shortly thereafter, will introduce a level of confusion and uncertainty that I am not comfortable with.

In my October 31, 2013 letter to Ms. Sheryl Bilbrey with PG&E, I provided a temporary recusal to notify residents that would be potentially eligible for the WHRW Program due to expansion of the 3rd quarter buffer. Since my decision is now final, I expect full compliance with the requirements of any existing order. This would mean that PG&E would have to provide interim bottled water and information regarding the WHRW Program to any newly eligible property owner within the five (5) days set forth in the existing Order.

I believe there is an opportunity for PG&E and the community of Hinkley to work together to come up with solutions that satisfy most of the needs of all of the parties, and provide that certainty for themselves, especially in light of the fact that decisions by the State Board and DPH could impose requirements that are less satisfactory to all. The Water Board has facilitated those discussions in the past and I would like to offer our assistance again. We should not wait until the DPH drinking water standard is adopted to begin our discussions about how the new standard will affect the community, PG&E and Water Board requirements.

The Water Board has recently received three complex and technically related evaluation and interpretive reports that should be discussed in an open forum¹. The new information in these three reports answers some old questions, but raises many new ones. Everyone working together is a more effective use of expertise and resources. Cooperation between PG&E and the community can produce viable solutions that are more satisfying to everyone and more directly address concerns than decisions that are made for the parties by the Water Board. In the future, I request PG&E and the community make a good faith effort to work together and find consensus before coming to the Water Board with requests for changes. As always, we are here to provide guidance and technical assistance.

If you have any questions please contact me at pzkouyoumdjian@waterboards.ca.gov (530) 542-5412 or Doug Smith at dfsmith@waterboards.ca.gov (530) 542-5453.



PATTY Z. KOUYOUMDJIAN
EXECUTIVE OFFICER

cc: PG&E Hinkley Lyris List (and web posting)

¹ Third Quarter 2013 Groundwater Monitoring Report and Domestic Well Sampling Results, Site-wide Groundwater Monitoring Program, October 30, 2013, by CH2M Hill; Compliance with Provision 1.C. of Cleanup and Abatement Order R6V-2008-0002-A4 and Requirements of Investigation Order R6V-2013-0029, October 29, 2013, by Stantec; and Project Proposal for Occurrence of natural and anthropogenic Cr VI near a mapped plume, Hinkley, CA, September 2013, by Dr. John Izbicki with the US Geological Survey.