Valencia Water Company, Perchlorate Litigation Summary, as updated by personal communications with Robert J. DiPrimio, President

Valencia Water Company

Application No._____

Attachment G

Exhibit 7

Date_____

VALENCIA WATER COMPANY

PERCHLORATE LITIGATION SUMMARY

Castaic Lake Water Agency et al. v. Whittaker Corporation et al.
Litigation Summary

In 1997, the State of California conducted tests on a number of municipal water wells owned by Santa Clarita Water Division of Castaic Lake Water Agency (SCWD), Newhall County Water District (NCWD) and Valencia Water Company (VWC) located in the vicinity of the former Whittaker Bermite site . These and subsequent tests found perchlorate in four of the purveyors' deep Saugus Formation aquifer wells: NCWD-11, SCWD Saugus 1, SCWD Saugus 2 and VWC-157 at maximum levels ranging from 14 ppb to 47 ppb depending on the well. These wells were removed from active service and have not been used for drinking water supplies since 1997. In November 2002, perchlorate was found in a shallow Alluvial aquifer groundwater well – SCWD Stadium – at levels up to 5.9 ppb. In April 2005, perchlorate contamination was found in another shallow Alluvial aquifer groundwater well – VWC -Q2. The source of the perchlorate is believed to be from the Whittaker-Bermite site given the proximity of all six impacted wells to the property and the fact that both groundwater and surface water flows from the property to the six wells.

In November, 2000 Castaic Lake Water Agency(CLWA), NCWD, SCWD, and VWC (collectively, "Plaintiffs") filed a complaint against past owner Whittaker and current owners SCLLC and Remediation Financial, Inc. ("RFI")(Whittaker, SCLLC and RFI are collectively referred to as "Defendants") in the California Central District Court asserting that hazardous substances (including perchlorate) released from the Whittaker Bermite site contaminated some of Plaintiffs' water production wells. In July 2002, Plaintiffs moved the Court for partial summary judgment that Defendants were liable for response costs under the Comprehensive Environmental Response, Compensation and Recovery Act ("CERCLA"). At the same time, Whittaker moved the Court to establish Plaintiffs' liability under CERCLA. In July 2003, the

Court granted (in part) Plaintiffs' motion and found that Whittaker and SCLLC were liable for CERCLA response costs and denied Whittaker's motion. Castaic Lake Water Agency v. Whittaker Corporation, 272 F.Supp.2d 1053 (2003).

In September 2003, the parties entered into an interim settlement agreement that stayed litigation to allow the parties to, *inter alia*, develop an engineering solution to contain and abate the groundwater contamination and negotiate a final settlement agreement. As a condition for staying litigation activities, Defendants were required to reimburse CLWA for past monitoring and investigation costs and fund the development of the engineering solution. While the parties developed a groundwater abatement/containment plan, they were unable to reach a final settlement agreement. The interim settlement agreement expired on January 31, 2005.

In July 2004, Defendants SCLLC and RFI, the current owners of the Whittaker property filed a petition for chapter 11 bankruptcy protection and were subject to the automatic stay of litigation. The SCLLC and RFI bankruptcy filing complicated settlement negotiations because any proposed settlement offer that involved SCLLC and RFI insurance proceeds – a substantial and important source of settlement funds – required bankruptcy court approval.

The stay of litigation lapsed on January 31, 2005 without a final settlement and on March 23, 2005, the Court ordered the parties to mediate the matter before the Honorable Eugene Lynch (ret.). On April 19, 2005, Plaintiffs and Defendants reached an agreement in principle on damages that was subject to Defendants reaching a settlement funding agreement with their insurance carriers. During the April 2005 mediation, VWC informed Defendants of the perchlorate contamination found in VWC's groundwater well Q2. Whittaker agreed to provide $500,000 for the installation of a well head treatment unit. All capital as well as operating and maintenance costs for this treatment unit were funded by insurance companies representing the current and past owners of the property. Utilizing these funds, VWC installed a perchlorate removal system utilizing ion exchange technology. After only six months from the initial

detection of perchlorate in the well, Q2 was returned to active service on October 12, 2005. Subsequently in October 2007, the California Department of Public Health approved a request by VWC to remove the treatment system as a result of two years of continuous operation without a detection of perchlorate in the untreated groundwater produced by Q2. Currently, Q2 remains in operation without any requirement for well head treatment.

In July 2005, the parties reported that settlement negotiations between Plaintiffs and Defendants had not progressed because Defendants and their insurance carriers had not reached an agreement on funding the settlement. The Court ordered the parties to resume litigation activities on August 16, 2005. In November 2005, Defendants and their insurance carriers reached an agreement on the allocation of environmental insurance proceeds for the site and funding of a potential settlement with the Plaintiffs and submitted the proposed settlement agreement to the bankruptcy court for approval. The Bankruptcy court approved the settlement agreement involving the insurance proceeds and in January 2006, Defendants provided Plaintiffs with a draft plan to utilize the insurance proceeds to settle Plaintiffs' groundwater contamination claims.

In May 2007, the Water Purveyors announced a settlement of their lawsuit against Whittaker to contain and remove perchlorate from the Santa Clarita Valley's groundwater aquifers. The Water Purveyors estimate this settlement provides up to $100 million to address the problem. The underlying litigation was dismissed by the US District Court in August 2007. See **Appendix A** which contains the following documents: 1) *Castaic Lake Water Agency Litigation Settlement Agreement* , 2) *Order Granting Joint Motion for Court Approval, Good Faith Settlement Determination and Entry of Consent Order* dated July 16, 2007, and 3*) Stipulation to Dismiss Plaintiffs' Claims and Defendants' Counterclaim*, dated August 20, 2007.

The Settlement Agreement provides funding to construct replacement wells, pipelines, and a treatment plant to remove perchlorate. The Settlement Agreement also provides funds to operate and maintain the treatment system for up to thirty years, which is estimated to cost as much as $50 million over the life of the project. The treatment plant has been designed by CLWA and the Settlement Agreement provides $1.7 million to reimburse CLWA for past expenditures. In

addition, a $10 million “rapid response fund” will be established to allow the water purveyors to immediately treat threatened wells that could become impacted by perchlorate contamination in the future. VWC received a total of $3.5 million under the Settlement Agreement which included $2.5 million for past environmental claims and $1.0 million to close and abandon V-157 and drill replacement well V-206.

Following the settlement of the litigation, VWC and the other water purveyors entered into two separate agreements, each formally prepared as a Memorandum of Understanding (MOU). These MOUs were necessary to implement the various obligations under the Settlement Agreement. The first MOU sets forth the rights among the water purveyors to receive payments pursuant to the Settlement Agreement and clarifies project administration which includes such things as project modification, future perchlorate detections, monitoring, payment of on-going legal fees, dispute resolution and other provisions described in the Settlement Agreement. The second MOU sets forth the operational plan and financial arrangements to deliver certain quantities of groundwater from the perchlorate treatment system and a future replacement well field that in total, would restore the water supply capacity impacted by perchlorate to SCWD and NCWD. Both MOUs are included in **Appendix B**.