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Castaic Lake Water Agency and Newhall County Water District Approve Bermite Settlement

By Frederic A. Fudacz

Castaic Lake Water Agency, Newhall County Water District, Santa Clarita Water Company and Valencia Water Company have settled their lawsuit against the current and past owners of the former Bermite industrial site and approved a settlement agreement to remove perchlorate from the Santa Clarita Valley's groundwater aquifers. The water agencies estimate this settlement, when added to past settlements, provides up to \$100 million.

Acting as counsel for these water agencies, Nossaman, Guthner, Knox & Elliott filed the lawsuit in November 2000 after perchlorate was discovered in five wells, which were immediately shut down. The water agencies contended the pollution came from the former Bermite site located in the City of Santa Clarita. The 996-acre site was used for decades to manufacture dynamite, fireworks and munitions. Perchlorate compounds are used in the manufacture of explosives, munitions and rocket fuel.

The settlement agreement provides funding to construct replacement wells, pipelines and a treatment plant to remove perchlorate. The settlement also provides funds to operate and maintain the system for up to thirty years, which the water agencies estimate to cost as much as \$50 million. The treatment plant is already under design by the water agencies and the agreement provides almost \$12 million to reimburse the agencies for past expenditures. In addition, a \$10 million "rapid response fund" will be established to allow the water agencies to immediately treat any additional wells that could become impacted by perchlorate contamination in the future.

"The really good news is that the settlement protects our groundwater supplies and the cost of the treatment will not be borne by the residents of the Santa Clarita Valley", said William Pecsí, President of the CLWA Board of Directors. "The water agencies are now poised to implement a sophisticated treatment plan approved by the Department of Toxic Substances Control, and in cooperation with Whittaker Bermite. Our proactive approach will also contain, as well as treat, the contamination and ultimately restore our impacted groundwater production capacity."

Randall Pfiester, President of the NCWD Board of Directors, added, "I am pleased the community will benefit from this renewed source of drinking water. This settlement allows us to use existing proven technology to build groundwater purification facilities to restore groundwater production. Equally exciting is being able to, in a number of years, remove or isolate perchlorate from the Valley's groundwater aquifers."

Funded by Whittaker Corporation, Remediation Financial, Inc., Santa Clarita, LLC and their insurers, the settlement is still subject to the approval of the Bankruptcy Court as the site owners had filed for bankruptcy in 2002. Fred Fudacz, a partner at Nossaman and lead counsel to the water agencies, believes that court approval will be forthcoming. "This is a significant achievement that the court will approve. The settlement agreement will protect the Valley's groundwater resources, providing full funding for that effort in a cooperative, cost-effective manner. All involved can be justifiably proud."

If you have questions or want to learn more about the settlement, please contact Fred Fudacz at ffudacz@nossaman.com or (213) 612-7823.

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