

January 4, 2010

Benjamin Grumbles
Director
Arizona Department of Environmental Quality
1110 W. Washington, Sixth Floor
Phoenix, Arizona 85044-4429



Re: Roosevelt Irrigation District - West Van Buren WQARF Area

Dear Benjamin:

Thank you for inviting comment on the Roosevelt Irrigation District ("RID") proposed Groundwater Response Action ("GRA") and the accompanying Work Plan. We also appreciate you and your staff taking the time to meet with interested and concerned parties on November 3, 2009. During that meeting, I noted that this firm represents three entities, each with different circumstances but all with the same view of RID's proposal. The November meeting closed with your comment that you and/or ADEQ staff would respond to the group's concerns and requests regarding the RID proposal. Normally, I would wait until having the benefit of the Agency's response prior to sending a comment letter; however, I am told that RID, its counsel and ADEQ are meeting with some frequency and I felt it imprudent for me to delay our clients' request and comments any further.

The request from all three is that ADEQ reinstate the West Van Buren technical working group. The working group would provide a mechanism to allow stakeholder input into the WQARF process designed to ensure appropriate and organized input into the design of a remedy for the regional groundwater plume, which exists in the western portion of the West Salt River Valley. Further, our clients wish to participate in a transparent process which results in a cost-effective, technically-sound remedy.

The concerns follow and echo those presented to ADEQ by other interested parties both at the November meeting and in writing. Our clients will provide specific technical comments when a specific technically-sound proposal for a remedy is proposed, either by RID or by ADEQ. Our clients wish to be involved in a process by which stakeholders have input, the design and operation of the remedy is fully vetted by both technical and legal consultants, the cost-effectiveness and reasonable end uses of the remediated water are considered and there is

transparency such that all interested parties know when and in what manner to provide comments or participate. WQARF provides for such a process. We encourage its implementation here.

RID, in asking ADEQ to be involved in reviewing and approving the GRA and Work Plan, seeks to invoke a process whereby, with ADEQ's imprimatur, RID can later use ADEQ's approval as a weapon against other entities. Some of those entities have proven no impact to groundwater and others seek to work cooperatively with ADEQ. It appears, as others have noted, that RID's proposal is designed to provide RID a new business opportunity without regard for the requirements of Arizona law or ADEQ's regulations to identify a remedy which actually resolves the groundwater contamination in a technically-feasible, cost-effective and legally competent manner. RID's proposal, under the auspices of an "Early Response Action," seeks to circumvent the public process and proposes a "remedy" which in scope and cost exceeds anything resembling reasonable for the type, source and concentration of contamination identified to date in the West Van Buren WQARF Area.

Neither the GRA nor the Work Plan provides any evidence of actual harm to RID's current and proposed future operation. The data to date are indicative of declining levels of contamination which emanate from mostly identified sources that have been eliminated, are under control, or are quickly becoming so through ADEQ's own efforts. ADEQ continues to search for additional sources that, no doubt, ADEQ will also bring under control.

RID's proposal is, at best, incomplete. There are no details of the "proposed remedy," nor is there a feasibility study. Estimated detailed costs are not provided, preventing the "remedy" from being compared to alternatives. Pumping and treating large volumes of low VOC concentration groundwater contributes to cost without being effective. RID has not provided scientific data or analysis to demonstrate the short- or long-term effectiveness of the proposed remedy. Alternatives do not appear to have been considered. If they were considered, no information was provided as to which remedies were considered and why they were rejected. Plume containment is not demonstrated.

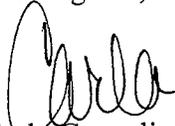
One anticipates that RID's response to the above will be that this is an "Early Response Action" (ERA) and not a final remedy, so none of the above is necessary. Before such an argument can be considered, RID must demonstrate that an ERA is indeed necessary and that RID's proposal meets the criteria. RID cannot do so on either count and has, by its own actions and responses to ADEQ, demonstrated that an ERA is not necessary. RID mischaracterizes the ERA rule, A.A.C. R18-16-405, when it states that the rule "specifies ... goals for ERAs". Work Plan at 4. The rule actually states that an ERA must be "necessary to" achieving at least one of the listed actions.

An ERA is intended to provide a relatively quick, short-term remedial action that addresses current risks to public health, welfare and the environment. RID has operated these last 25 years with knowledge of the groundwater contamination in the vicinity of its wells. As

recently as 2008, RID acknowledged that its current and future operations are all non-potable uses. Contaminant concentrations today are lower than in the past. The ADEQ Draft Remedial Investigation identifies no current risk to public health, welfare or the environment and RID demonstrates no risks associated with its current operations. In short, an ERA is not necessary.

What has been proposed will set up multiple decades of service of remediated groundwater to unnamed and unknown customers under a set of unidentified and not yet negotiated terms with little demonstration that the proposal is either cost-effective or technically competent. Given that Arizona has a statute, regulations and a process specifically designed to handle situations like WVB, using it seems not only appropriate, but mandatory.

Best regards,



Carla Consoli

CC/nlt

cc: Amanda Stone

Julie Riemenschneider ✓