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HAND-DELIVERED

April 22, 2010

Arizona Department of Environmental Quality
Attention: Ms. Jennifer Edwards Thies
WQARF Unit Manager
1110 W. Washington St.
4415B-1
Phoenix, AZ 85007-9973

RE: West Van Buren WQARF Registry Site; Comments to Roosevelt Irrigation District's Proposed Early Response Action Work Plan

Dear Ms. Thies:

Schuff Steel Company ("Schuff") appreciates the opportunity to comment upon the Roosevelt Irrigation District's ("RID's") proposed Early Response Action Work Plan, dated February 3, 2010 ("Work Plan"), for the West Van Buren Water Quality Assurance Revolving Fund ("WQARF") Registry Site. In short, Schuff endorses a cost-effective remediation of West Van Buren WQARF groundwater, but it opposes ADEQ approval of RID's Work Plan.

Founded by Arizonans in 1976, Schuff Steel is an Arizona-based company with headquarters in Phoenix. Schuff operates a structural steel fabrication plant, located at 420 S. 19th Ave, Phoenix (the "Facility"), that is marginally located within the West Van Buren WQARF Site boundaries. RID has named Schuff, along with over 100 co-defendants, in its Complaint filed February 9, 2010, in the United States District Court for the District of Arizona (*Roosevelt Irrigation District v. Salt River Project Agricultural Improvement and Power District, et al.*, No. 2:10-cv-00290-ROS), because of alleged groundwater contamination beneath its Facility. To be clear, *no evidence has been identified by RID that hazardous substances have been released from the Facility that have impacted groundwater, RID's wells or RID's water-related operations.*

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ADEQ and its contractors have recommended no additional investigation of the Facility. (See, e.g., ADEQ October 2008 Draft Remedial Investigation Report – West Van Buren Area WQARF Registry Site.) ADEQ also has told Schuff representatives that it does not intend to further investigate the Facility for West Van Buren WQARF-related purposes.

That notwithstanding, should RID pursue this litigation, Schuff will be forced to defend against these suspect claims. Protracted litigation is certain, and will significantly and negatively impact Schuff--and many other Arizona businesses--that are struggling with current extraordinary challenging economic circumstances.

Schuff generally concurs with the many stakeholders opposing the Work Plan, as identified at the March 23, 2010 public meeting. We encourage ADEQ to consider, in particular, the technical and legal comments of Salt River Project, the City of Phoenix, Gammage & Burnham (on behalf of its clients) and the Arizona and Greater Phoenix Chambers of Commerce, as well as the other companies which recognize RID's flawed proposal.

Schuff wishes to emphasize certain concerns:

- (1) We trust ADEQ will carefully evaluate the technical merit of the Work Plan, as it would with any other proposed remedial plan or feasibility study. We urge ADEQ, however, to consider the true cost to many stakeholders should RID's plan be approved.
- (2) Schuff also fears ADEQ's approval of the Work Plan primarily furthers RID's pecuniary interest. Stated respectfully but directly, ADEQ approval of the Work Plan *will* facilitate RID's unusual litigation against many Arizona businesses, including Schuff, that have not contributed to the regional groundwater contamination problem. At a minimum, ADEQ should conduct, or arrange with other stakeholders to conduct, a feasibility study investigating other alternative remedies, *prior* to any approval of the Work Plan.
- (3) RID has not adequately demonstrated legitimate risks to the public health, or even to its current or future operations. ADEQ must ensure such is done prior to any approval. The early response action rule, A.A.C. R18-16-405, is intended for short-term remedial actions that address demonstrated risks to public health, welfare and the environment. RID's reliance upon this mechanism is inappropriate under these circumstances and should not be permitted.

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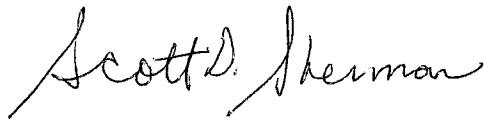
- (4) RID has not sufficiently established that implementation of the Work Plan will actually save remedial expenditures in the end. ("In many instances, ERAs may involve 'spending a penny today to save a dollar tomorrow'." 8 A.A.R. 1501, effective March 4, 2002 (Supp. O2-1)). Indeed, the RID Work Plan is more of a regional public works project than a cost-effective, specific remedial project.
- (5) ADEQ, in conjunction with the EPA, must assess possible investigative and remedial activities – present and future – for facility owners located within or adjacent to the Motorola 52nd Street Superfund Site Operable Unit 3 and the West Van Buren WQARF boundaries. Without participation by ADEQ and the EPA, businesses could be subject to conflicting and multiple liabilities.

For the reasons stated herein, RID's proposed remedial action does not substantially comply with the remedy selection requirements of Article 4 of Title 18 of the Arizona Administrative Code. Accordingly, ADEQ should disapprove the Work Plan and consider alternative remedies that are necessary, cost-effective and reasonable to all, and that are conceived with the meaningful input of affected stakeholders.

Schuff reserves the right to supplement or amend these comments based upon the submittals of others and as this matter continues. Thank you for your consideration of our concerns. If you have any questions, please do not hesitate to contact me.

Sincerely,

SCHUFF STEEL COMPANY



Scott D. Sherman
Vice President and General Counsel

cc: Ryan Schuff
David V. Seyer, Esq.