

CASE ALERT

WATER RECHARGERS AND PROVIDERS MAY QUALIFY AS PRPs UNDER CERCLA

Hatch & Parent's Environmental Quality Group is monitoring an important court case that may affect water providers, water wholesalers and rechargers throughout California.

In the past week, several polluters in the South El Monte Operable Unit (SEMOU) Litigation have sued water providers, water wholesalers and the Main South San Gabriel Watermaster on several interesting theories.

The case was originally filed by three water providers and the San Gabriel Water Quality Authority (Watermaster) to recover costs incurred for extensive Volatile Organic Compounds (VOC) contamination in the basin.

During the initial stages of the litigation, the Court ruled that water providers qualify as potentially responsible parties (PRPs) under CERCLA. With the discovery of perchlorate, the PRPs are bringing claims against the water providers, wholesalers (Metropolitan Water District and Upper San Gabriel Valley Water District) and Watermaster on claims that:

1. For over 30 years contaminated Colorado River Water has been imported into the Basin. This water was then discharged to the aquifer as recharge;
2. Watermaster, Upper San Gabriel Valley Water District and Metropolitan Water District transported the "contaminated water" to the Basin for the purpose of disposal of same and did discharge it into the aquifer;
3. The various water entities have "introduced, transported for disposal, or arranged for the transportation of, contaminants into the SEMOU."

If you are concerned that this type of action might affect your agency, or if you would like a copy of the pleading and/or court rulings, please contact me at (310) 440-9996 or SHoch@HatchParent.com.

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For HATCH & PARENT, A Law Corporation

Are You at Risk?

- Is any of your recharge water source contaminated?**
- Do you move water into a basin for recharge or other uses?**
- Do you use water from the Basin that is recharge water?**

If you answered yes to any of these questions, you may be the subject of an attack like this should you seek to recover from those that caused the contamination in the first place. This attack represents a dangerous precedent for water suppliers, both retail and wholesale, and for those responsible for recharge of various basins to maintain adequate water supplies.

If you would like assistance in evaluating whether or not your agency is at risk, please contact the Environmental Quality Group at Hatch & Parent, (310) 440-9996.

The information in this newsletter is intended as general information and may not be relied upon as legal advice, which can only be given by a lawyer based upon all the relevant facts and circumstances of each particular situation.