

# CHIRON



September 24, 1997

Mr. Mark Johnson  
California Regional Water Quality Control Board  
San Francisco Bay Region  
2101 Webster Street, Suite 500  
Oakland, CA 94612

**Subject: LFR's Response to EKI Comments on the Work Plan for Site  
Investigation of the Sherwin-Williams Site Dated 9/10/97**

Dear Mark:

I am writing to you concerning Levine-Fricke Recon's ("LFR") September 10, 1997 letter responding to technical comments on the subject Work Plan prepared by Erler & Kalinowski, Inc. ("EKI") on behalf of Chiron and submitted to you on June 20, 1997. While many of the technical comments contained in LFR's letter are constructive, I am sure you will recognize that the letter also contains several statements which are nothing more than legal posturing unsupported by the facts. Given the wide distribution of the LFR letter, and the possibility that a less informed reader might actually believe these statements, I feel compelled to set the record straight.

First, contrary to LFR's statement, Chiron has not prevented Sherwin-Williams from investigating the Rifkin property in its search for other possible sources of contamination, except to have requested that Sherwin-Williams defer any borings within tenant-occupied spaces at the northern end of the Rifkin property furthest from the Sherwin-Williams site until after the tenants vacated the spaces. Further, while we believe that it would be more prudent for Sherwin-Williams to focus their initial efforts on getting a better handle on the full nature and extent of the uncontrolled releases of arsenic and other hazardous substances continuing to emanate from its site, Chiron stands ready to provide Sherwin-Williams with access to further investigate the Rifkin property. We would prefer, however, that this work be performed after the Regional Board has approved the investigation work plan. Accordingly, the only order that the Regional Board will need to issue in this matter is the one they are in the process of issuing to Sherwin-Williams.

Second, contrary to LFR's statements, Chiron has not prevented Sherwin-Williams from proceeding with remediation of the Rifkin property. Chiron has, however,

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provided Sherwin-Williams and the Regional Board with comments on the deficiencies in Sherwin-Williams' previous proposed remedial schemes for the Rifkin property. Chiron is hopeful that, pursuant to the order that the Regional Board is about to issue, Sherwin-Williams finally will develop an adequate and comprehensive remedial plan for its facility and the Rifkin property that is technically sound and compatible with existing and planned future uses of the Rifkin property.

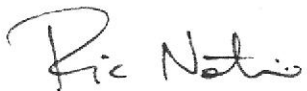
Third, LFR's letter states that Chiron, as a tenant of property which has some historical contamination that preexisted Chiron's occupancy, has somehow tried to "evade their own responsibilities on sites they occupy." I know of no regulatory requirement or legal theory by which a tenant who has neither caused nor contributed to preexisting contamination, has any responsibility for such contamination. Not only has Chiron not evaded any responsibility as a tenant, but as a prospective purchaser has voluntarily performed a site characterization study of the South BGR property and reported the results to the Regional Board in a timely manner.

Fourth, in a continuing effort to deflect attention from the significant soil and groundwater contamination emanating from the Sherwin-Williams site by pointing the finger at other known and imaginary sources, and exaggerating the significance of these sources, the LFR letter states that there is a "source of arsenic from the former Shell Development Facility on the BGR property." The basis for this so-called "source" of arsenic on the BGR property is an elevated level of arsenic that was detected in one grab groundwater sample collected by EKI and reported to the Regional Board in 1994. If the Regional Board believes that further investigation of this area for arsenic is warranted, we would encourage you to ask the appropriate responsible parties to conduct such an investigation.

In conclusion, setting all the rhetoric aside, the record shows that despite the passage of nine years since Sherwin-Williams first reported the discovery of significant soil and groundwater contamination associated with its site to the Regional Board, neither the Sherwin-Williams site nor the surrounding impacted properties have been adequately investigated or remediated by Sherwin-Williams. As a result, it has now become necessary for the Regional Board to issue a comprehensive order requiring Sherwin-Williams to promptly investigate and remediate the hazardous substances emanating from their site. Chiron looks forward to continuing to work constructively with the Regional Board to facilitate this effort.

Sincerely,

CHIRON CORPORATION



Ric Notini  
Manager, Environmental Health & Safety

cc: Stephen Morse, California Regional Water Quality Control Board  
Ravi Arulanatham, California Regional Water Quality Control Board  
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