

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2009-0506

MANDATORY PENALTY
IN THE MATTER OF

SPX CORPORATIONS, SPX MARLEY COOLING TECHNOLOGIES
GROUNDWATER EXTRACTION AND TREATMENT SYSTEM
SAN JOAQUIN COUNTY

This Administrative Civil Liability Order (Order) is issued to the SPX Corporations, SPX Marley Cooling Technologies (hereafter Discharger) pursuant to California Water Code (CWC) section 13385. This Order is based on findings that the Discharger violated provisions of Waste Discharge Requirements (WDRs) Order R5-2003-0030.

The Executive Officer of the Central Valley Regional Water Quality Control Board (Central Valley Water Board) finds the following:

1. The Discharger owns and previously operated a cooling tower fabrication plant at 150 North Sinclair Avenue in the East Stockton Area of San Joaquin County (Site). As part of the fabrication operations, the Discharger operated a wood preservation process utilizing solutions containing copper, chromium and arsenic. Wood processing was discontinued at the Site in January 1991; however past operational practices left waste constituents in soils and groundwater underlying the Site. The discharger owns and operates a Groundwater Extraction and Treatment System (GETS) at the Site. The GETS consists of a treatment plant with an electrochemical unit operating in parallel to an ion exchange unit that removes chromium from the extracted water. Up to 0.94 million gallons per day (mgd) of treated water is discharged to the Stockton Diverting Canal, a tributary to the Calaveras River, under current NPDES order R5-2007-0170, which was issued on 24 October 2008. The Stockton Diverting Canal and Calaveras River are waters of the United States.
2. On 25 January 2008, the Central Valley Water Board issued Time Schedule Order R5-2008-0011 to regulate discharges of treated groundwater from the GETS.
3. On 17 November 2008, the Assistant Executive Officer issued Administrative Civil Liability Complaint R5-2008-0614 in the amount of thirty three thousand (\$33,000) for Mandatory Minimum Penalties (MMPs). After consideration of additional information submitted by the Discharger, this Order adjusts the amount of violations subject to MMPs. The adjustments are included as Attachment A to this Order and discussed in Finding No.8 of this Order.
4. CWC sections 13385(h) and (i) require assessment of mandatory penalties and state, in part, the following:

CWC section 13385(h)(1) states:

Notwithstanding any other provision of this division, and except as provided in subdivisions (j), (k), and (l), a mandatory minimum penalty of three thousand dollars (\$3,000) shall be assessed for each serious violation.

CWC section 13385 (h)(2) states:

For the purposes of this section, a “serious violation” means any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group II pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 20 percent or more, or for a Group II pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 40 percent or more.

CWC section 13385(i) states:

(1) Notwithstanding any other provision of this division, and except as provided in subdivisions (j), (k), and (l), a mandatory minimum penalty of three thousand dollars (\$3,000) shall be assessed for each violation whenever the person does any of the following four or more times in any period of six consecutive months, except that the requirement to assess the mandatory minimum penalty shall not be applicable to the first three violations:

(A) Violates a waste discharge requirement effluent limitation.

(B) Fails to file a report pursuant to Section 13260.

(C) Files an incomplete report pursuant to Section 13260.

(D) Violates a toxicity effluent limitation contained in the applicable waste discharge requirements where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.

(2) For the purposes of this section, a “period of six consecutive months” means the period commencing on the date that one of the violations described in this subdivision occurs and ending 180 days after that date.

6. WDRs Order R5-2003-0030 Effluent Limitation B.5 includes, in part, the following effluent limitations: “*effluent shall not exceed the following interim limitations.*”

Constituents	Units	Daily Maximum	Monthly Average
Copper (total)	µg/L	6.5	5.0
Total Chromium	µg/L	--	50
Hexavalent Chromium	µg/L	16	8.0
Arsenic (Total)	µg/L	--	10
Total Dissolved Solids	mg/L	1000	500
Total Residual Chlorine	mg/L	0.02	0.01

According to the Discharger's self-monitoring reports, the Discharger committed six (6) non-serious violations of the above effluent limitations contained in WDRs Order R5-2003-0030 during the period beginning 1 January 2000 through 30 April 2008. Attachment A to this Order is the final Record of Violations that identifies six serious violations that are subject to MMPs under CWC section 13385(i)(1) because these violations were preceded by three or more similar violations within a six-month period.

7. The total sum of the MMPs for the six serious effluent limitation violations is **eighteen thousand dollars (\$18,000)**.
8. As described in the technical memorandum mentioned in Finding No. 3, Central Valley Water Board staff made the following adjustments to the draft Record of Violations (all violation numbers reference those contained in the draft Record of Violations).
 - Copper Violations 5,7,9,11,13. The Discharger presented evidence that, for these violations, 4 to 5 samples were collected per month which, when averaged, would lower the monthly average below the monthly limit. After recalculation, these entries were no longer violations, and are not subject to MMPs.
9. Issuance of this Administrative Civil Liability Order to enforce CWC Division 7, Chapter 5.5 is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000 et seq.), in accordance with California Code of Regulations, title 14, section 15321(a)(2).
10. On 15 March 2007, the Central Valley Water Board explicitly delegated to the Executive Officer the authority to issue orders to assess administrative civil liability where the matter is not contested by the discharger. (Resolution R5-2007-0009).
11. This Order constitutes a settlement of the violations cited herein. Notice of this settlement was published in Stockton Record on 6 March 2009. A 30-day period was provided for interested parties to comment on this action by 5 April 2009. During this period, no significant comments were received which would have caused the Regional Water Board to reconsider this action and therefore the Regional Water Board has finalized this Order.

SPX CORPORATIONS, SPX MARLEY COOLING TECHNOLOGIES IS HEREBY GIVEN NOTICE THAT:

1. The Discharger is assessed an Administrative Civil Liability in the amount of **eighteen thousand dollars (\$18,000)**.
2. The Discharger will remit payment for the civil liability imposed by check, which contains a reference to "ACL Complaint No. R5-2009-0506" and is made payable to the "State Water Pollution Cleanup and Abatement Account." The Regional Water Board must receive payment within 30 days of issuance of this order.

Full text of the Order is available on the Central Valley Water Board's website at http://www.waterboards.ca.gov/centralvalley/ /board_decisions/adopted_orders/.

Original Signed by

PAMELA CREEDON, Executive Officer

6 April 2009

(Date)

Attachment A: Record of Violations

SPX Cooling Technologies (Former Marley Cooling Tower Facility)

Groundwater Extraction and Treatment Facilities (GETS)

RECORD OF VIOLATIONS (1 January 2000 – 30 April 2008) MANDATORY PENALTIES

(Data reported under Monitoring and Reporting Program R5-2003-0030)

	<u>Date</u>	<u>Constituent</u>	<u>Units</u>	<u>Limit</u>	<u>Measured</u>	<u>Period Type</u>	<u>Remarks</u>
1	19-Jul-01	pH	pH units	8.5	8.6	Instantaneous	3
2	26-Jul-01	pH	pH units	8.5	8.7	Instantaneous	3
3	2-Aug-01	pH	pH units	8.5	8.6	Instantaneous	3
4	14-Feb-02	Copper	µg/L	6.5	15	Daily Max	2
5	14-Mar-02	Copper	µg/L	6.5	15	Daily Max	2
6	11-Apr-02	Copper	µg/L	6.5	15	Daily Max	2
7	16-May-02	Copper	µg/L	6.5	9	Daily Max	2
8	8-Aug-02	Copper	µg/L	6.5	9	Daily Max	2
9	3-Mar-03	hexavalent chromium	µg/L	16	35	Daily Max	2
10	31-Mar-03	hexavalent chromium	µg/L	8	9.5	Monthly Ave	3
11	6-May-04	Copper	µg/L	6.5	7.3	Daily Max	3
12	10-Oct-07	Copper	µg/L	6.5	7	Daily Max	3

Remarks:

1. Serious Violation: For Group I pollutants that exceed the effluent limitation by 40 percent or more.
2. Serious Violation: For Group II pollutants that exceed the effluent limitation by 20 percent or more.
3. Non-serious violations falls within the first three violations in a six-month period, thus is exempt.
4. Non-serious violation subject to mandatory penalties.

VIOLATIONS AS OF: 4/30/2008

Group I Serious Violations:	0
Group II Serious Violations:	6
Non-Serious Exempt from MPs:	6
Non-serious Violations Subject to MPs:	0
<u>Total Violations Subject to MPs:</u>	6

Mandatory Minimum Penalty = (6 Serious Violations + 0 Non-Serious Violations) x \$3,000 = \$18,000