

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2008-0617

MANDATORY PENALTY  
IN THE MATTER OF

W. A. GRIFFIN, JR.  
dba GRIFFIN RESOURCES  
MOUNT POSO OIL FIELD  
KERN COUNTY

This Complaint is issued to Griffin Resources (hereafter Discharger) pursuant to California Water Code (CWC) section 13385, which authorizes the imposition of Administrative Civil Liability (ACL), CWC section 13323, which authorizes the Executive Officer to issue this Complaint, and CWC section 7, which authorizes the delegation of the Executive Officer's authority to a deputy, in this case the Assistant Executive Officer. This Complaint is based on findings that the Discharger violated provisions of Waste Discharge Requirements (WDRs) Orders 94-173 and R5-2002-0108 (NPDES No. CA0081388) at its Mount Poso Oil Field Facility (Facility) in the Poso Creek Oil Field.

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

1. The Discharger owns and operates a crude oil recovery facility from several oil field leases at its Facility in the Mount Poso Oil Field. The Discharger's oil field leases include Villard, Poscal, and Pacific. The crude oil recovery process generates produced water (wastewater) that is treated to remove oil, grease, and sediments. The wastewater treatment system includes three wash tanks, three stock tanks, an oil recovery skim tank, three sumps, an air flotation unit, an oil and grease separator, and a storage pond. Treated wastewater is discharged to Little Creek, which is tributary to Poso Creek, a water of the United States.
2. On 24 June 1994, the Central Valley Water Board issued WDRs Order 94-173 to regulate the Facility's discharge of treated wastewater to Little Creek. On 22 October 1999, the Central Valley Water Board Executive Officer administratively extended the effective date of WDRs Order 94-173.
3. On 7 June 2007, Central Valley Water Board issued WDRs Order R5-2002-0108, which prescribed new requirements for the discharge and rescinded WDRs Order 94-173.
4. On 11 April 2007, Board staff conducted an inspection of the Facility and determined that the Facility's discharge infiltrates into the soils within the creekbed of Little Creek and pollutants conveyed in the discharge do not reach Poso Creek, a water of the United States. Consequently, staff concluded the discharge should not be subject to regulation under the NPDES program and recommended that the Central Valley Water Board amend WDRs Order R5-2002-0108 to rescind the terms and conditions pertaining to NPDES No. CA0081388. However, during the time in which the violations occurred, the

facility had a valid NPDES permit, the issuance of which was not challenged by the Discharger. The California Water Code mandates the imposition of certain monetary penalties, as explained below, for NPDES permit violations of the type described herein.

5. On 26 October 2007, Central Valley Water Board issued Special Order R5-2007-0156, which determined the discharge did not result in a discharge of pollutants to a water of the United States, amended WDRs Order R5-2002-0108 to rescind the terms and conditions pertaining to NPDES No. CA0081388, and authorized the discharge to Little Creek to continue.
6. CWC section 13385(h) requires assessment of mandatory penalties and state, in part, the following:

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.

7. CWC section 13385(i) requires assessment of mandatory penalties and states, in part, the following:

CWC section 13385(i)(1) states, in relevant part:

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.

CWC section 13385(i)(2) states:

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.

8. CWC section 13385.1(a)(1) states:

For purposes of subdivision (h) of Section 13385, a "serious violation" also means a failure to file a discharge monitoring report required pursuant to Section 13383 for each complete period of 30 days following the deadline for submitting the report, if the report is designed to ensure compliance with limitations contained in waste discharge requirements that contain effluent limitations.

9. CWC section 13323 states, in relevant part, that:

Any executive officer of a regional board may issue a complaint to any person on whom administrative civil liability may be imposed pursuant to this article. The complaint shall allege the act or failure to act that constitutes a violation of law, the provision authorizing civil liability to be imposed pursuant to this article, and the proposed civil liability.

10. WDRs Order 94-173, Effluent Limitation B.1, prescribes, in part, a daily maximum effluent limitation for Oil and Grease of 35 mg/L.
11. WDRs Order R5-2002-0108, Effluent Limitation B.2 prescribes, in part, the following effluent limitations:

| <u>Constituent</u>           | <u>Units</u> | <u>Daily Maximum</u> |
|------------------------------|--------------|----------------------|
| Electrical Conductivity (EC) | µmhos/cm     | 1000                 |
| Boron                        | mg/L         | 1.0                  |
| Oil and Grease               | mg/L         | 21                   |

12. WDRs Order R5-2002-0108, Effluent Limitation B.4, prescribes an effluent limitation for pH that states: "The discharge shall not have a pH less than 6.5 or greater than 8.3."
13. WDRs Order R5-2002-0108, Monitoring and Reporting Program R5-2002-0108, requires the Discharger to submit monthly self-monitoring reports by the 1<sup>st</sup> day of the second month following sample collection.
14. On 5 November 2008, Central Valley Water Board staff (staff) issued the Discharger a Notice of Violation and draft Record of Violations identifying violations of WDRs Orders 94-173 and R5-2002-0108 that are subject to Mandatory Minimum Penalties (MMPs). The draft Record of Violations covers the period from 1 January 2000 to 26 October 2007, when the Central Valley Water Board modified WDRs Order R5-2002-0108 to rescind the terms and conditions pertaining to the NPDES permit. The draft Record of Violations identifies one (1) serious violation of the effluent Oil and Grease limitation subject to MMP pursuant to CWC section 13385(h), fifteen (15) non-serious violations of effluent limitations, of which five (5) are subject to MMP pursuant to CWC section 13385(i), and fifty-five (55) serious late reporting violations subject to MMP.
15. By letter dated 18 November 2008, the Discharger acknowledged its receipt of the 5 November 2008 Notice of Violation and draft Record of Violations and, on 18 November 2008, notified staff via e-mail that it was unable to examine the accuracy of violations cited in the draft Record of Violations because it was unable to access its records pertaining to the alleged violations and, consequently, it had no comments regarding the alleged violations identified as being subject to MMPs.

16. Following issuance of the 5 November 2008 Notice of Violation, staff re-evaluated the late reporting violations identified as subject to MMP in the draft Record of Violations. As indicated in Finding 4, on 27 October 2007 the Central Valley Water Board amended WDRs Order R5-2002-0108 to rescind the terms and conditions of NPDES permit. Fifty-one late reporting violations identified in the draft Record of Violations were for 30-day periods effective after 27 October 2007. Staff revised the California Integrated Water Quality System database to indicate these violations were not subject to MMP because their effective occurrence dates were after 27 October 2007, the date the Central Valley Water Board rescinded the terms and conditions of the NPDES permit.
17. Attachment A to this Complaint is the final Record of Violations that identifies one (1) serious violation of the effluent Oil and Grease limitation subject to MMP pursuant to CWC section 13385(h); fifteen (15) non-serious violations of effluent limitations, of which five (5) are subject to MMP pursuant to CWC section 13385(i); and three (3) serious late reporting violations subject to MMP pursuant to CWC section 13385.1(a)(1).
18. The total amount of liability assessed for the violations identified in Attachment A as subject to MMP is **twenty-seven thousand dollars (\$27,000)**.
19. Issuance of this Administrative Civil Liability Complaint 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).

**GRIFFIN RESOURCES IS HEREBY GIVEN NOTICE THAT:**

1. The Assistant Executive Officer of the Central Valley Water Board proposes that the Discharger be assessed an Administrative Civil Liability in the amount of **twenty-seven thousand dollars (\$27,000)**.
2. A hearing on this matter will be held at the Central Valley Water Board meeting scheduled on **5/6 February 2009**, unless the Discharger does either of the following by **5 January 2009**:
  - a. Waives the hearing by completing the attached form (checking off the box next to item #4) and returning it to the Central Valley Water Board, along with payment for the proposed civil liability of **twenty-seven thousand dollars (\$27,000)**; or
  - b. Agrees to enter into settlement discussions with the Central Valley Water Board and requests that any hearing on the matter be delayed by signing the enclosed waiver (checking off the box next to item #5) and returning it to the Central Valley Water Board along with a letter stating the issues to be discussed in settlement negotiations.

3. If a hearing on this matter is held, the Central Valley Water Board will consider whether to affirm, reject, or modify the proposed Administrative Civil Liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.

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LOREN J. HARLOW, Assistant Executive Officer

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Attachment A: Record of Violations

HA: 11/21/2008

**WAIVER OF 90-DAY HEARING REQUIREMENT FOR  
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

By signing this waiver, I affirm and acknowledge the following:

1. I am duly authorized to represent Griffin Resources (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint R5-2008-0617 (hereinafter the "Complaint");
2. I am informed that California Water Code section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served" with the Complaint;
3. I hereby waive any right the Discharger may have to a hearing before the California Regional Water Quality Control Board, Central Valley Region (Regional Water Board) within ninety (90) days of service of the Complaint; and
4.  ***(Check here if the Discharger will waive the hearing requirement and will pay the fine)***
  - a. I certify that the Discharger will remit payment for the civil liability imposed in the amount of **twenty seven thousand dollars (\$27,000)** by **two** checks that both contain a reference to "ACL Complaint R5-2008-0617." One check is to be in the amount of **eighteen thousand dollars (\$18,000)** made payable to the "State Water Pollution Cleanup and Abatement Account," and one check is to be in the amount of **nine thousand dollars (\$9,000)** and made payable to the "Waste Discharge Permit Fund." Payment must be received by the Regional Water Board by **5 January 2009** or this matter will be placed on the Regional Water Board's agenda for adoption as initially proposed in the Complaint.
  - b. I understand the payment of the above amount constitutes a settlement of the Complaint, and that any settlement will not become final until after the 30-day public notice and comment period mandated by Federal regulations (40 CFR 123.27) expires. Should the Regional Water Board receive new information or comments during this comment period, the Regional Water Board's Assistant Executive Officer may withdraw the complaint, return payment, and issue a new complaint. New information or comments include those submitted by personnel of the Regional Water Board who are not associated with the enforcement team's issuance of the Complaint.
  - c. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.

-or-

5.  ***(Check here if the Discharger will waive the 90-day hearing requirement, but will not pay at the current time. The Central Valley Water Board must receive information from the Discharger indicating a controversy regarding the assessed penalty at the time this waiver is submitted, or the waiver may not be accepted.)*** I certify that the Discharger will promptly engage the Central Valley Water Board staff in discussions to resolve the outstanding violation(s). By checking this box, the Discharger is *not* waiving its right to a hearing on this matter. By checking this box, the Discharger requests that the Central Valley Water Board delay the hearing so that the Discharger and Central Valley Water Board staff can discuss settlement. It remains within the discretion of the Central Valley Water Board to agree to delay the hearing. A hearing on the matter may be held before the Central Valley Water Board if these discussions do not resolve the liability proposed in the Complaint. The Discharger agrees that this hearing may be held after the 90-day period referenced in California Water Code section 13323 has elapsed.
6. If a hearing on this matter is held, the Central Valley Water Board will consider whether to issue, reject, or modify the proposed Administrative Civil Liability Order, or whether to refer the matter to the Attorney General for recovery of judicial civil liability. Modification of the proposed Administrative Civil Liability Order may include increasing the dollar amount of the assessed civil liability.

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(Print Name and Title)

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(Signature)

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**ATTACHMENT A (Draft) – continued**  
**Griffin Resources**  
**Poso Creek/McVan Facility**

(Date)

ATTACHMENT A  
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2008-0617

GRIFFIN RESOURCES  
MOUNT POSO OIL FIELD

RECORD OF VIOLATIONS (1 January 2000 – 26 October 2007) MANDATORY PENALTIES  
(Unless otherwise indicated, data reported under Monitoring and Reporting Programs 94-173 and R5-2002-0108)

| <u>Violation ID<sup>1</sup></u> | <u>Violation Date</u> | <u>Violation Type<sup>2</sup></u> | <u>Violation Description<sup>3</sup></u>   | <u>MMP Type<sup>4</sup></u> |
|---------------------------------|-----------------------|-----------------------------------|--|-----------------------------|
| 190467                          | 12/28/00              | CAT1                              | 12M; O&G; 35; mg/l; D; 96  | Serious                     |
| 781113                          | 8/1/2003              | OEV                               | 8M; pH; 6.5-8.3; pH units; I; 8.8  | Exempt                      |
| 241818                          | 9/2/2003              | OEV                               | 9M; pH; 6.5-8.3; pH units; I; 8.7  | Exempt                      |
| 248859                          | 1/2/2004              | OEV                               | 1M; pH; 6.5-8.3; pH units; I; 8.4  | Exempt                      |
| 248861                          | 2/2/2004              | CAT1                              | 2M; Boron; 1.0; mg/l; D; 1.2   | Chronic                     |
| 781103                          | 9/1/2005              | OEV                               | 9M; pH; 6.5-8.3; pH units; I; 8.7  | Exempt                      |
| 781105                          | 10/3/2005             | OEV                               | 10M; EC; 1000; umhos/cm; D; 1100   | Exempt                      |
| 781107                          | 11/1/2005             | CAT1                              | 11M; Boron; 1.0; mg/l; D; 1.1  | Exempt                      |
| 781083                          | 1/3/2006              | OEV                               | 1M; pH; 6.5-8.3; pH units; I; 8.5  | Chronic                     |
| 407243                          | 2/1/2006              | CAT1                              | 2M; Boron; 1.0; mg/l; D; 1.1   | Chronic                     |
| 407248                          | 5/1/2006              | OEV                               | 5M; pH; 6.5-8.3; pH units; I; 8.4  | Exempt                      |
| 781146                          | 6/1/2006              | OEV                               | 6M; EC; 1000; umhos/cm; D; 1100  | Chronic                     |
| 781078                          | 1/7/2007              | OEV                               | 1M; pH; 6.5-8.3; pH units; M; 8.7  | Exempt                      |
| 696558                          | 2/1/2007              | OEV                               | 2M; EC; 1000; umhos/cm; D; 1100  | Exempt                      |
| 785852                          | 4/11/2007             | CAT1                              | 4M; Boron; 1.0; mg/l; D; 1.1 <sup>5</sup>  | Exempt                      |
| 781081                          | 5/1/2007              | OEV                               | 5M; EC; 1000; umhos/cm; D; 1100  | Chronic                     |
| 783255                          | 8/2/2007              | LREP                              | June 2007 SMR, due 8/1/2007, not received as of 9/2/2008 (85 days late), 1st 30-day period. <sup>6</sup> | Serious                     |
| 783377                          | 8/2/2007              | LREP                              | June 2007 SMR, due 8/1/2007, not received as of 9/2/2008 (85 days late), 2nd 30-day period. <sup>6</sup> | Serious                     |
| 783405                          | 9/2/2007              | LREP                              | July 2007 SMR, due 9/1/2007, not received as of 9/2/2008 (54 days late). <sup>6</sup>                    | Serious                     |

<sup>1</sup> Violation ID in CIWQS

<sup>2</sup> Table of Abbreviations below defines abbreviations used in this table.

<sup>3</sup> Violation Descriptions are coded as follows: Reporting period (e.g., 2M = February); constituent or parameter (e.g., pH); effluent limitation; units; limitation period; and reported result.

<sup>4</sup> Chronic non-serious and serious violations are subject to MMPs. Exempt non-serious violations fall within the first three violations in a six-month period, thus are exempt.

<sup>5</sup> Sample collected by Central Valley Water Board staff during a facility inspection.

<sup>6</sup> Late Reporting Violations that fall after 27 October 2007, when the Central Valley Water Board rescinded the NPDES No. CA0081388 portion of WDRs Order R5-2002-0108, are not subject to MMP.

| <u>Abbreviation</u> | <u>Definition</u>   |
|---------------------|---|
| CAT1                | Violation of Group I pollutant effluent limitation as defined in Enforcement Policy |
| CIWQS               | California Integrated Water Quality System database                                 |
| D                   | Daily   |
| I                   | Instantaneous   |
| LREP                | Late report   |
| M                   | Monthly   |
| MMP                 | Mandatory Minimum Penalty   |
| O&G                 | Oil and Grease  |
| OEV                 | Other Effluent Violation  |

| VIOLATION SUMMARY |          |        |         |             |
|-------------------|----------|--------|---------|-------------|
| Violation Type    | MMP Type |        |         | Grand Total |
|                   | Chronic  | Exempt | Serious |             |
| CAT1              | 2        | 2      | 1       | 5           |
| LREP              |          |        | 3       | 3           |
| OEV               | 3        | 8      |         | 11          |
| Grand Total       | 5        | 10     | 4       | 19          |

| <u>MMP VIOLATION TYPE</u>   | <u>VIOLATION PERIOD</u><br><u>1/1/2000 TO 10/26/2007</u> |
|---|--|
| Serious Group I Pollutant Effluent Limitation Violations Subject to MMPs: | 1  |
| Serious Late Reporting Violations Subject to MMPs:                        | 3  |
| Chronic Violations Subject to MMPs:                                       | 5  |
| <b>Total Violations Subject to MMPs:</b>                                  | <b>9</b>   |
| Non-serious Effluent Limitation Violations Exempt from MMPs:              | 10   |

**Mandatory Minimum Penalty = (4 Serious + 5 Chronic Violations) x \$3,000 = \$27,000**