

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION**

In the Matter of:

ORDER R5-2017-0536

**General Electric Company  
General Electric Company and  
Wellmade Products Company  
Groundwater Cleanup System  
Merced County**

**SETTLEMENT AGREEMENT AND  
STIPULATION FOR ENTRY OF  
ADMINISTRATIVE CIVIL LIABILITY  
ORDER**

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**INTRODUCTION**

1. This Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order (Stipulated Order or Order) is entered into by and between the Assistant Executive Officer of the California Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board or Regional Board), on behalf of the Central Valley Water Board Prosecution Team (Prosecution Team), General Electric Company (Discharger or GE), and Amec Foster Wheeler Environment & Infrastructure, Inc. (Operator or Amec), collectively known as the Parties, and is presented to the Central Valley Water Board, or its delegee, for adoption as an order by settlement, pursuant to Government Code section 11415.60.

**RECITALS**

2. GE owns, and Amec operates, a groundwater cleanup system (Facility) located at 1715 Kibby Road in Merced, Merced County on property owned by Wellmade Products Company. The groundwater treatment system consists of 31 groundwater monitoring wells, nine extraction wells and an air stripper system designed to accommodate a maximum flow of 1,100 gallons per minute. The treatment portion of the air stripper system was replaced by a two-vessel, 20,000-pound granular activated carbon (GAC) treatment system in January 2016. The GAC treatment system is designed to accommodate a maximum flow rate of 700 gallons per minute (anticipated flow rate between 100 and 500 gpm), with the two GAC vessels operated in series. Treated groundwater is discharged to Hartley Lateral Canal, which is hydraulically connected to Miles Creek, a water of the United States. Hartley Lateral Canal is owned and operated by Merced Irrigation District.

3. The Discharger filed a Report of Waste Discharge (ROWD) and submitted an application for renewal of its waste discharge requirements and NPDES permit on 12 November 2013.
4. Based on the application packet and subsequent information submitted by the Discharger, Central Valley Water Board staff determined that the project met the required conditions for enrollment under the Limited Threat General Order. The Facility was issued Limited Threat General Order R5-2013-0073-01-042 and NPDES Permit No. CAG995002. The Limited Threat General Order prescribes effluent limitations and mandatory discharge monitoring and reporting requirements. Compliance was measured through a monitoring and reporting program that required the Discharger to monitor effluent from the Facility and submit self-monitoring reports to the Regional Board on a quarterly basis.
5. The Discharger's self-monitoring reports for 1<sup>st</sup> quarter of 2016 indicate that the wastewater discharged from the Facility exceeded the effluent limitations for trichloroethene during that quarter on one (1) occasion. The following is a list of outstanding effluent limit violations, based on the prescribed effluent limitations in the Limited Threat General Order and a review of GE's electronically submitted Self-Monitoring Reports (eSMRs):

Date	Parameter	Units	WDRs Limit	Measured	Period	Remarks	CIWQS
1/26/16	Trichloroethene	µg/L	0.5	3.0	Instantaneous Maximum	2	1007811

Remarks:

1. Serious Violation: For Group I pollutants that exceed the effluent limitation by 40% or more.
2. Serious Violation: For Group II pollutants that exceed the effluent limitation by 20 % or more.
3. Non-serious violation falls within the first three violations in a 180-day period, thus is not subject to mandatory minimum penalties. Penalties that may be assessed for this violation are discretionary.
4. Non-serious violation subject to mandatory minimum penalties.

**SUMMARY OF VIOLATIONS:**

Group I Serious Violations:	0
Group II Serious Violations:	1
Non-Serious Violations Not Subject to MMPs:	0
Violations Exempt from MMPs:	0
<u>Non-serious Violations Subject to MMPs:</u>	<u>0</u>
<b>Total Violations Subject to MMPs:</b>	<b>1</b>

**Mandatory Minimum Penalty = (1 Violation Subject to MMPs) x \$3,000 = \$3,000**

6. Water Code section 13385, subdivision (h)(1) requires the Regional Water Board to assess a mandatory minimum penalty (MMP) of three thousand dollars (\$3,000) for each serious violation.
7. Water Code section 13385, subdivision (h)(2) defines a “serious violation” as “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 I pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 40 percent or more.
8. Trichloroethene is a Group II pollutant. The measured trichloroethene concentration of 3.0 µg/L in the Facility’s effluent on 26 January 2016 exceeds the 0.5 µg/L effluent limitation by more than 20 percent. Therefore, the effluent limitation exceedance noted in paragraph 5 is a serious violation and subject to an MMP under Water Code section 13385 subdivision (h).
9. The Parties have engaged in settlement negotiations and agree to settle the matter without administrative or civil litigation by presenting this Stipulated Order to the Central Valley Water Board, or its delegee, for adoption as an order by settlement pursuant to Government Code section 11415.60. To resolve the alleged violation by consent and without further administrative proceedings, the Parties have agreed to the imposition of \$3,000 in liability against the Discharger.
10. The Central Valley Water Board Prosecution Team believes that the resolution of the alleged violation is fair and reasonable and fulfills its enforcement objectives, that no further action is warranted concerning the violation alleged herein, and that this Stipulated Order is in the best interest of the public.

### STIPULATIONS

The Parties stipulate to the following:

11. **Administrative Civil Liability:** The Discharger hereby agrees to the imposition of an administrative civil liability totaling THREE THOUSAND DOLLARS (\$3,000) to resolve the alleged violation. The Operator agrees to fulfill the following terms of this Stipulated Order:

- 11.1 Within thirty (30) days of adoption of the Stipulated Order, Amec agrees to remit, by check, THREE THOUSAND DOLLARS (\$3,000) payable to the *State Water Resources Control Board Cleanup and Abatement Account*, and shall indicate on the check the number of this Order. Amec shall send the original signed check to the State Water Resources Control Board Accounting Office, Attn: ACL Payment, P.O. Box 1888, Sacramento, CA 95812-1888. Copies of the check shall be sent to Stephanie Yu, Attorney, State Water Resources Control Board, Office of Chief Counsel, P.O. Box 100, Sacramento, CA 95812 and Dale Harvey, Supervisor, Compliance/Enforcement Section, Regional Water Quality Control Board, Central Valley Region, 1685 E Street Fresno, CA 93706.
12. **Compliance with Applicable Laws:** The Discharger understands that payment of administrative civil liability in accordance with the terms of this Stipulated Order and/or compliance with the terms of this Stipulated Order is not a substitute for compliance with applicable laws, and that continuing violations of the type alleged in herein may subject it to further enforcement, including additional administrative civil liability.
13. **Party Contacts for Communications related to Stipulated Order:**

**For the Central Valley Water Board:**

Dale Harvey, Supervisor  
Compliance and Enforcement Section  
Central Valley Regional Water Quality Control Board  
1685 E Street Fresno, CA 93706  
[dale.harvey@waterboards.ca.gov](mailto:dale.harvey@waterboards.ca.gov)(559) 445-6190

**For the Discharger:**

Randall McAlister,  
Remedial Portfolio and Site Manager  
General Electric Company  
801 Main Avenue  
The Towers at Merritt River  
Norwalk, CT 06856  
[Randall.Mcalister@GE.com](mailto:Randall.Mcalister@GE.com)  
(203) 373-3855

**For the Operator:**

Paul Deutsch, Principal Scientist  
Amec Foster Wheeler Environment &  
Infrastructure, Inc.  
1281 East Alluvial Avenue, Suite 101  
Fresno, CA 93720  
[Paul.Deutsch@amecfw.com](mailto:Paul.Deutsch@amecfw.com)  
(559) 892-2902

14. **Attorney's Fees and Costs:** Except as otherwise provided herein, each Party shall bear all attorneys' fees and costs arising from the Party's own counsel in connection with the matters set forth herein.
15. **Matters Addressed by Stipulation:** Upon adoption by the Central Valley Water Board, or its delegee, this Stipulated Order represents a final and binding resolution and settlement of all claims, violations or causes of action alleged in paragraph 5 or which could have been asserted based on the specific facts alleged in paragraph 5 as of the effective date of this Stipulated Order ("Covered Matters"). The provisions of this Paragraph are expressly conditioned on the payment of the administrative civil liability by the deadline specified in Paragraph 11.
16. **Public Notice:** The Discharger and Operator understand that this Stipulated Order must be noticed for a 30-day public review and comment period prior to consideration by the Central Valley Water Board, or its delegee. If significant new information is received that reasonably affects the propriety of presenting this Stipulated Order to the Central Valley Water Board, or its delegee, for adoption, the Prosecution Team may unilaterally declare this Stipulated Order void and decide not to present it to the Central Valley Water Board, or its delegee. The Discharger and Operator agree that they may not rescind or otherwise withdraw approval of this proposed Stipulated Order.
17. **Addressing Objections Raised During Public Comment Period:** The Parties agree that the procedure contemplated for the Central Valley Water Board's adoption of the settlement by the Parties and review by the public, as reflected in this Stipulated Order, will be adequate. In the event procedural objections are raised prior to the Stipulated Order becoming effective, the Parties agree to meet and confer concerning any such objections, and may agree to revise or adjust the procedure as necessary or advisable under the circumstances.
18. **No Waiver of Right to Enforce:** The failure of the Prosecution Team or of the Central Valley Water Board to enforce any provision of this Stipulated Order shall in no way be deemed a waiver of such provision, or in any way affect the validity of the Order. The failure of the Prosecution Team or of the Central Valley Water Board to enforce any such provision shall not preclude it from later enforcing the same or any other provision of this Stipulated Order.

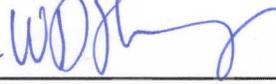
19. **Effect of Stipulated Order:** Except as expressly provided in this Stipulated Order, nothing in this Stipulated Order is intended nor shall it be construed to preclude the Prosecution Team or any state agency, department, board or entity or any local agency from exercising its authority under any law, statute, or regulation.
20. **Interpretation:** This Stipulated Order shall be construed as if the Parties prepared it jointly. Any uncertainty or ambiguity shall not be interpreted against any one Party.
21. **Modification:** This Stipulated Order shall not be modified by any of the Parties by oral representation made before or after its execution. All modifications must be in writing, signed by all Parties, and approved by the Central Valley Water Board.
22. **If Order Does Not Take Effect:** In the event that this Stipulated Order does not take effect because it is not approved by the Central Valley Water Board, or its delegee, the Parties acknowledge that they expect to proceed to a contested evidentiary hearing before the Central Valley Water Board to determine whether to assess administrative civil liabilities for the underlying alleged violation, unless the Parties agree otherwise. The Parties agree that all oral and written statements and agreements made during the course of settlement discussions will not be admissible as evidence in the hearing. The Parties agree to waive any and all objections based on settlement communications in this matter, including, but not limited to:
  - a. Objections related to prejudice or bias of any of the Central Valley Water Board members or their advisors and any other objections that are premised in whole or in part on the fact that the Central Valley Water Board members or their advisors were exposed to some of the material facts and the Party's settlement positions as a consequence of reviewing the Stipulation and/or the Order, and therefore may have formed impressions or conclusions prior to any contested evidentiary hearing on the Complaint in this matter; or
  - b. Laches or delay or other equitable defenses based on the time period for administrative or judicial review to the extent this period has been extended by these settlement proceedings.
23. **No Admission of Liability:** In settling this matter, the Discharger does not admit to any of the allegations in paragraph 5, or that it has been or is in violation of the Water

- Code, or any other federal, state, or local law or ordinance; however, the Discharger agrees that in the event of any future enforcement actions by the Central Valley Water Board, the Order may be used as evidence of a prior enforcement action consistent with Water Code sections 13327 and 13385.
24. **Waiver of Hearing:** The Discharger has been informed of the rights provided by Water Code section 13323(b), and hereby waives its right to a hearing before the Central Valley Water Board prior to the adoption of the Stipulated Order.
25. **Waiver of Right to Petition:** The Discharger hereby waives its right to petition the Central Valley Water Board's adoption of the Stipulated Order as written for review by the State Water Board, and further waives its rights, if any, to appeal the same to a California Superior Court and/or any California appellate level court.
26. **Covenant Not to Sue:** The Discharger covenants not to sue or pursue any administrative or civil claim(s) against any State Agency or the State of California, their officers, Board Members, employees, representatives, agents, or attorneys arising out of or relating to any Covered Matter.
27. **Central Valley Water Board is Not Liable:** Neither the Central Valley Water Board members nor the Central Valley Water Board staff, attorneys, or representatives shall be liable for any injury or damage to persons or property resulting from acts or omissions by the Discharger, its directors, officers, employees, agents, representatives or contractors in carrying out activities pursuant to this Stipulated Order, nor shall the Central Valley Water Board, its members or staff be held as parties to or guarantors of any contract entered into by the Discharger, its directors, officers, employees, agents, representatives or contractors in carrying out activities pursuant to this Stipulated Order.
28. **The Discharger is Not Liable:** Neither the Discharger, its directors, officers, employees, agents, representatives or contractors shall be liable for any injury or damage to persons or property resulting from acts or omissions by the Central Valley Water Board members, or the Central Valley Water Board staff, attorneys, or representatives in carrying out activities pursuant to this Stipulated Order, nor shall the Discharger, its directors, officers, employees, agents, representatives or contractors be held as parties to or guarantors of any contract entered into by the

- Central Valley Water Board, its members or staff the Discharger, in carrying out activities pursuant to this Stipulated Order.
29. **Authority to Bind:** Each person executing this Stipulated Order in a representative capacity represents and warrants that he or she is authorized to execute this Stipulated Order on behalf of and to bind the entity on whose behalf he or she executes the Stipulated Order.
  30. **No Third Party Beneficiaries:** This Stipulated Order is not intended to confer any rights or obligations on any third party or parties, and no third party or parties shall have any right of action under this Stipulated Order for any cause whatsoever.
  31. **Effective Date:** This Stipulated Order shall be effective and binding on the Parties upon the date the Central Valley Water Board, or its delegee, enters the Stipulated Order.
  32. **Counterpart Signatures:** This Stipulated Order may be executed and delivered in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, but such counterparts shall together constitute one document.

**IT IS SO STIPULATED.**

California Regional Water Quality Control Board Prosecution Team  
Central Valley Region

By:   
- For  
Clay Rodgers  
Assistant Executive Officer

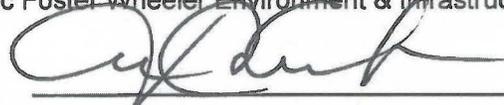
Date: 7/4/17

General Electric Company

By:   
Randall McAlister  
Remedial Portfolio and Site Manager

Date: 7/10/17

Amec Foster Wheeler Environment & Infrastructure, Inc.

By:   
Paul Deutsch  
Principal Scientist

Date: 7-10-17

**Order of the Central Valley Water Board**

1. This is an action to enforce the laws and regulations administered by the Central Valley Water Board. The method of compliance with this enforcement action consists entirely of payment of amounts for administrative civil liability. As such, the Central Valley Water Board finds that issuance of this Order is not considered subject to the provisions of the California Environmental Quality Act (CEQA) as it will not result in a direct or reasonably foreseeable indirect physical change in the environment and is not considered a "project" (Public Resources Code sections 21065, 21080(a); sections 15060(c)(2) and (3); 15378(a), Title 14, of the California Code of Regulations). In addition, the Central Valley Water Board finds that issuance of this Order is also exempt from the provisions of CEQA in accordance with section 15321(a)(2), Title 14, of the California Code of Regulations as an enforcement action by a regulatory agency and there are no exceptions that would preclude the use of this exemption.
2. The terms of the foregoing Stipulation are fully incorporated herein and made part of this Order of the Central Valley Water Board.

Pursuant to Water Code sections 13323 and 13385 and Government Code section 11415.60, **IT IS HEREBY ORDERED** on behalf of the California Regional Water Quality Control Board, Central Valley Region.

ORIGINAL SIGNED BY:

8/31/17

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Pamela C. Creedon  
Executive Officer

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Date