

Central Valley Regional Water Quality Control Board

5 March 2018

Scott Goulart
Aerojet Rocketdyne Inc.
11260 Pyrites Way, Suite 125
Rancho Cordova, CA 95670

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ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2018-0508 FOR ASSESSMENT OF MANDATORY MINIMUM PENALTIES, AEROJET ROCKETDYNE INC., GROUNDWATER EXTRACTION AND TREATMENT SYSTEMS, SACRAMENTO COUNTY

Enclosed is an Administrative Civil Liability Complaint (Complaint), issued pursuant to California Water Code section 13385, for violations of Waste Discharge Requirements (WDRs) Order R5-2014-0126 (NPDES CA0083861) by Aerojet Rocketdyne Inc. (Discharger) for treated groundwater discharge from its Groundwater Extraction and Treatment Systems located in Sacramento County (Facilities). The Complaint charges the Discharger with administrative civil liability in the amount of **twenty seven thousand dollars (\$27,000)**, which represents the sum of accrued mandatory minimum penalties for effluent limitation violations (identified in Attachment A of the Complaint) that occurred between 1 December 2015 and 30 November 2017. The Complaint alleges nine effluent limitation violations, four trichloroethene, three n-nitrosodimethylamine, one acetaldehyde, and one cis-1,2-dichloroethene.

On 31 January 2018, Central Valley Water Board staff issued the Discharger a draft Record of Violations (ROV) for the period from 1 December 2015 through 30 November 2017. On 6 February 2017, the Discharger responded via email to the ROV and stated that these effluent violations should not be considered as serious violations because none of these violations exceed the drinking water Maximum Contaminant Levels (MCLs). Therefore, the Discharger asserts that these violations should be considered non-serious.

The Discharger also objected to Board staff's approach for citing multiple violations for a single sample value when it exceeded multiple effluent limitations, such as a daily maximum concentration, mass loading, and a monthly average, with a single sample analytical result. Regional Board staff appreciate the Discharger's response to the ROV; however, Board staff do not agree with the Discharger's interpretation of serious and non-serious violations. According to the *2017 State Water Resources Control Board Water Quality Enforcement Policy* (Enforcement Policy) defines a "serious violation" as:

"A serious violation is any waste discharge that exceeds the effluent limitation for a Group I pollutant by 40 percent or more, or a Group II pollutant by 20 percent or more (see Appendix A to 40 CFR 123.45)..."

Therefore, Board staff has determined that these effluent violations qualify as serious violations per 40 CFR 123.45. In addition, for purposes of assessing mandatory minimum penalties,

Board staff determines the number of WDRs effluent limitations that were violated based on monitoring data and other evidence that the discharger submitted. If only one sample is collected during a monitoring period, that one sample is the only data available to determine compliance with multiple effluent limitations, such as a daily maximum concentration limitation and a monthly average effluent limitation. A violation is cited for any limitation that is exceeded based on Water Code Section 13385(h) or (i).

In addition, the Discharger requested that the 30 November 2016 (CIWQS violation ID #1038364) violation for N-Nitrosodimethylamine be dismissed because Board staff's monthly average calculation only included effluent concentration from two samples instead of three samples, which lowers the calculated monthly average concentrations and results in compliance with the WDRs effluent limitation. Upon further investigation, Board staff determined that one sample result was inadvertently reported under the wrong month. After Board staff had the Discharger correct the November 2016 eSMR, Board staff reevaluated the November 2016 eSMR and agrees that the average monthly discharge concentration was below the effluent limitation. Therefore, Board staff has dismissed CIWQS Violation ID #1038364.

The Discharger argues that the WDRs has set the effluent limitations to the lowest possible level and any detection of the constituent would constitute a serious violation. Board Compliance and Enforcement staff do not have the enforcement discretion to modify effluent limitations contained in a Board adopted WDRs Order. Several limitations in the WDRs are very low; however, the WDRs were adopted following a public comment period where the Discharger had the opportunity to contest the draft WDRs. NPDES Permits are renewed in five-year cycles. There will be an opportunity to request modifications to the future WDRs in your Report of Waste Discharge, which is due by 12 April 2019.

Pursuant to Water Code section 13323, the Discharger may:

- Pay the proposed administrative civil liability and waive its right to a hearing (Option #1 on the attached waiver form);
- Ask that the hearing be postponed to facilitate settlement discussions or for other reasons (Options #2 or #3 on the attached waiver form); or,
- Contest the Complaint and/or enter into settlement discussions without signing the enclosed waiver.

If the Central Valley Water Board does not receive a signed waiver by **29 March 2018**, a hearing will be scheduled for the **31 May/1 June 2018** Board meeting in Rancho Cordova. This hearing will be governed by the attached Hearing Procedures, which have been approved by the Board Chair for use in adjudicating matters such as this one. Any objections to the Hearing Procedures must be received by Stephanie Yu, whose contact information is listed in the Hearing Procedures, by **5 p.m. on 15 March 2018**.

If the Discharger chooses to sign the waiver and pay the assessed civil liability, this will be considered a tentative settlement of the violations. Payment must be received by **29 March 2018**. The Discharger shall indicate on the check the number of this Complaint and send it to the State Water Resources Control Board, Accounting Office, Attn: ACL Payment, PO Box 1888, Sacramento, California, 95812-1888. The check shall be made payable to the *State Water Pollution Cleanup and Abatement Account*. The waiver and a copy of the check must also be mailed to the Central Valley Water Board at 11020 Sun Center Drive #200, Rancho Cordova, CA, 95670 attention to Howard Hold by **29 March 2018**.

The settlement will be considered final pending a 30-day comment period, starting from the date this Complaint is issued. Interested parties may comment on the proposed action during this period by submitting written comments to the Central Valley Water Board staff person listed below. Should the Central Valley Water Board receive new information or comments during this comment period, the Assistant Executive Officer may withdraw the complaint, return payment, and issue a new complaint. If the Central Valley Water Board does not hold a hearing on the matter, and if the terms of the final settlement are not significantly different from those proposed in the enclosed Complaint, then there will not be additional opportunities for public comment on the proposed settlement.

In order to conserve resources, this letter transmits paper copies of the documents to the Discharger only. Interested persons may download the documents from the Central Valley Water Board's Internet website at:

http://www.waterboards.ca.gov/centralvalley/tentative_orders/

Copies of these documents can also be obtained by contacting or visiting the Central Valley Water Board's office weekdays between 8:00 AM and 5:00 PM.

If you have any questions or comments regarding the Administrative Civil Liability Complaint, please contact Kari Holmes at (916) 464-4623 or Kari.Holmes@waterboards.ca.gov.



HOWARD HOLD, Acting Supervisor
Compliance and Enforcement Section

Enclosures (3): ACLC R5-2018-0508
Waiver Form
Hearing Procedures

cc w/o encl: Kenneth Greenberg, USEPA, Region 9, San Francisco
David Boyers, Office of Enforcement, SWRCB, Sacramento
Pamela Creedon, Central Valley Water Board Advisory Team, Rancho Cordova
Stephanie Yu, Office of Chief Counsel, SWRCB, Sacramento
Adam Laputz, Central Valley Water Board Advisory Team, Sacramento
Carol Oz, Department of Fish and Game, Region 2, Rancho Cordova
Chris Fennessy, 11260 Pryrites Way, Suite 125, Rancho Cordova, CA 95670