



California Regional Water Quality Control Board Central Valley Region



Terry Tamminen
Secretary for
Environmental
Protection

Robert Schneider, Chair

Arnold Schwarzenegger
Governor

Internet Address: <http://www.swrcb.ca.gov/rwqcb5>
11020 Sun Center Drive #200 Rancho Cordova, CA 95670-6114
Phone (916) 464-4730

25 June 2004

CERTIFIED MAIL
7004 1160 0000 0143 0175

Mr. Mark Kehoe
Director, Environmental and Safety Programs
GWF Powers Systems, L.P.
4300 Railroad Avenue
Pittsburg, CA 94565

GWF POWER SYSTEMS, L.P., WILBUR AVENUE EAST POWER PLANT ANTIOCH (SITE IV), CONTRA COSTA COUNTY, ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2004-0525

Enclosed is an Administrative Civil Liability Complaint for Mandatory Minimum Penalties issued pursuant to the California Water Code Section 13385 (h) and/or (i) for violations of Waste Discharge Requirements (WDRs) Order No. R5-2002-0155 (NPDES No. CA0082309) by GWF Power Systems L.P. Wilbur Avenue East Power Plant (Site IV). The Complaint proposes that GWF Powers Systems, L.P. pay \$12,000 to the State's Cleanup and Abatement Account.

You may agree to pay the civil liability and waive a hearing before the Regional Water Quality Control Board, Central Valley Region ("Regional Board") on the matter. If you waive a hearing, a duly authorized person should sign the waiver and submit it to this office, along with a check payable to the State Water Resources Control Board in the full amount of the civil liability. However, any waiver will not be effective until 30 days from the date of this Complaint to allow other interested persons to comment on this action. If the Regional Board does not receive a waiver and a check for the full amount by **26 July 2004**, a hearing will be scheduled at the 9/10 September 2004 Regional Board Meeting in Sacramento. Persons wishing to submit comments on this action should submit written comments within 30 days from the date of this letter to the Regional Board, attention: Greg Vaughn.

If you have any questions or comments, please call Greg Vaughn at (916) 464-4742.

THOMAS R. PINKOS
Executive Officer

Enclosure

cc: See Attached List

APPROVED

STAFF

SENIOR

CC List for GWF Power Systems L.P.

California Environmental Protection Agency



ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2004-0525
GWF POWER SYSTEMS, L.P.
WILBUR AVENUE EAST POWER PLANT ANTIOCH (SITE IV)
CONTRA COSTA COUNTY

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Ms. Kathi Moore, USEPA, Region IX, Chief NPDES Enforcement, San Francisco
Ms. Lisa Brown, CalEPA, Sacramento
Ms. Frances McChesney, State Water Resources Control Board, OCC, Sacramento
Mr. Mark Bradley, State Water Resources Control Board, OSI, Sacramento
Mr. Philip Isorena, State Water Resources Control Board, DWQ, Sacramento
Department of Environmental Health, Contra Costa County, Martinez
City of Antioch, Antioch
Mr. Don Freitas, Contra Costa County Clean Water Program, Martinez
Mr. Richard Denton, Contra Costa Water District, Concord
Mr. Dante Nomellini, Jr., Central Delta Water Agency, Stockton
Mr. John Herrick, South Delta Water Agency, Stockton
Mr. Bill Jennings, Delta Keeper, Stockton
Ms. Marjit Aramburu, Delta Protection Commission, Walnut Grove
Mr. Steve Macaulay, California Urban Water Agencies, Sacramento
Ms. Kate Poole, Adams Broadwell Joseph & Cardozo, South San Francisco
Ms. Carol Rios, Oakley City Council Member, Oakley

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

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2004-0525

**MANDATORY PENALTY
IN THE MATTER OF
GWF POWER SYSTEMS, L.P.
WILBUR AVENUE EAST POWER PLANT ANTIOCH (SITE IV)
CONTRA COSTA COUNTY**

This Complaint to assess Mandatory Penalties pursuant to California Water Code (CWC) Section 13385(h) and/or (i) is issued to GWF Power Systems, L.P. (hereafter Discharger) based on a finding of violations of Waste Discharge Requirements Order No. R5-2002-0155 (NPDES No. CA0082309).

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

1. CWC Section 13385(h) and (i) requires assessment of mandatory penalties and states, in part, the following:

CWC Section 13385(h)(1) requires the Regional Board to assess a mandatory penalty of three thousand dollars (\$3,000) for each serious violation.

CWC Section 13385 (h)(2) states for 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 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.

CWC Section 13385(i)(1) requires the Regional Board to assess a mandatory penalty of three thousand dollars (\$3,000) for each violation, not counting the first three violations, if the discharger does any of the following four or more times in any period of six consecutive months.

1. Violates a waste discharge requirement effluent limitation.
 2. Fails to file a report pursuant to Section 13260.
 3. Files an incomplete report pursuant to Section 13260.
 4. 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. On 6 September 2002, the Regional Board adopted Waste Discharge Requirements Order No. R5-2002-0155 for GWF Power Systems, L.P. to regulate discharges of waste from the Wilbur Avenue East Power Plant Antioch (Site IV).

3. Order No. R5-2002-0155 includes, in part, the following effluent limitations:

EFFLUENT LIMITATIONS:

The Discharge of an effluent in excess of the following limits is prohibited:

<u>Constituents</u>	<u>Units</u>	<u>Daily Maximum</u>
Molybdenum	µg/l	90
	lbs/day ³	0.09

³ Based on a maximum 30-day average daily flow of 0.125 mgd (125,000 gallons per day).

4. According to monitoring reports submitted by the Discharger, the Discharger committed four (4) serious violations during the twenty four-month period beginning 1 April 2002 and ending on 31 March 2004.

Molybdenum is listed as a Group II pollutant in Title 40 of the Code of Federal Regulations. The GWF Powers Systems Wilbur Avenue East Power Plant Antioch (Site IV) discharged effluent that exceeded the daily maximum effluent limitations for molybdenum by 20 percent or more as shown in the attached table.

The total amount of the mandatory penalty for these serious violations is **\$12,000**.

5. Issuance of this complaint is exempt from the Provisions of the California Environmental Quality Act (Public Resources Code Section 21000, et. seq.), in accordance with Title 14, California Code of Regulations Section 15321(a)(2) ("Enforcement Actions by Regulatory Agencies").

GWF POWER SYTEMS, L.P. IS HEREBY GIVEN NOTICE THAT:

1. The Executive Officer of the Regional Board proposes that the Discharger be assessed a Mandatory Penalty in the amount of \$12,000.
2. A hearing shall be held by the Regional Board, unless the Discharger agrees to waive the hearing and pay the mandatory penalty of \$12,000 in full.

3. The Discharger may waive the right to a hearing. If the Discharger chooses to waive the hearing, the Discharger must complete and sign the attached waiver and return it and a check made payable to the State Water Resources Control Board for the full amount of the mandatory penalty to the Regional Board's office at the letterhead address by **26 July 2004**.

THOMAS R. PINKOS, Executive Officer

25 June 2004

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT

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

1. I am duly authorized to represent GWF Power Systems, L.P. (hereinafter “Discharger”) in connection with Administrative Civil Liability Complaint No. R5-2004-0525 (hereinafter the “Complaint”);
2. I am informed of the right provided by Water Code section 13323, subdivision (b), to a hearing within ninety (90) days of issuance of the Complaint;
3. I hereby waive the Discharger’s right to a hearing before the California Regional Water Quality Control Board, Central Valley Region; and
4. Without admitting liability for the matters alleged in the Complaint, I otherwise agree to remit payment for the civil liability imposed in the amount of \$12,000 by check, which contains a reference to “ACL Complaint No. R5-2004-0525” and is made payable to the “*State Water Resources Control Board Cleanup and Abatement Account.*”
5. I understand the payment of the above amount constitutes a settlement of the Complaint that will not become final until after a public comment period.
6. I understand that the Executive Officer has complete discretion to modify or terminate this settlement during the 30-day public comment period, which began on the date of the Complaint.
7. 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.

(Name)

(Title)

(Date)