

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2008-0585

MANDATORY PENALTY  
IN THE MATTER OF

CHEVRON ENVIRONMENTAL MANAGEMENT COMPANY,  
CHEVRONTEXACO INCORPORATED,  
AND  
STANTEC CONSULTING INCORPORATED

PURITY OIL SALES SUPERFUND SITE  
GROUNDWATER CLEANUP PROJECT  
FRESNO COUNTY

This Complaint is issued to Chevron Environmental Management Company, ChevronTexaco Incorporated, and Stantec Consulting Incorporated (Dischargers) 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 Dischargers violated provisions of Waste Discharge Requirements (WDRs) Order No. R5-2006-0080 (NPDES No. CA0083429).

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

1. Chevron Environmental Management Company and ChevronTexaco Incorporated own and operate a Groundwater Treatment System (GWTS) at the Purity Oils Sales Superfund Site, a former oil recycling facility in Malaga, Fresno County. Stantec Consulting Incorporated operates and maintains the GWTS. Treated groundwater is discharged to Fresno Irrigation District (FID) North Central Canal and FID Central Canal. The canals discharge to Fresno Slough. Fresno Slough intermittently drains to San Joaquin River, both of which are waters of the United States.
2. On 3 August 2006, the Central Valley Water Board issued WDRs Order No. R5-2006-0080 for Chevron Environmental Management Company, ChevronTexaco Incorporated, and SECOR International Incorporated, to regulate discharges of treated groundwater from the GWTS. Subsequent to the issuance of the permit, SECOR International Incorporated was acquired by Stantec Consulting Incorporated. Stantec has assumed all of SECOR International's responsibilities at the site.
3. CWC section 13385(h) requires the assessment of mandatory penalties and states, 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 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.

4. CWC section 13323 states, in relevant part:

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.

5. WDRs Order No. R5-2006-0080 Effluent Limitation B.2 includes, in part, the following effluent limitations:

<u>Constituent</u>	<u>Units</u>	<u>Maximum Daily</u>
Iron	µg/L	300
Manganese	µg/L	50

6. On 15 August 2008, Central Valley Water Board staff issued the Dischargers a Notice of Violation and draft Record of Violations identifying violations of WDR Order No. R5-2006-0080 that are subject to MMPs. The draft Record of Violations covers the period from 3 August 2006 through 1 June 2008. According to the Dischargers' self-monitoring reports, the Dischargers committed one (1) serious violation of the effluent limitation for iron, a Class I pollutant, (result of 15,000 µg/L) and one (1) serious violation of the effluent limitation for manganese, a Class I pollutant, (result of 430 µg/L). Both violations occurred on 19 February 2008.

7. On 4 September 2008, the Dischargers responded to the 15 August 2008 Notice of Violation, claiming that the two cited violations that occurred on 19 February 2008 were the result of a single operational upset, and providing technical information supporting this claim. Staff reviewed the Dischargers' comments and determined the Dischargers had submitted sufficient technical information to support its claim that the two serious effluent limitation violations were the result of a single operational upset. Staff's analysis is included as Attachment A, a part of this Complaint.

8. The State Water Quality Enforcement Policy (19 February 2002) provides guidance on how to evaluate and enforce violations resulting from a single operational upset:

A single operational upset which leads to simultaneous violations of one or more pollutant parameters shall be treated as a single violation. EPA defines 'single operational upset' as 'an exceptional incident which causes simultaneous, unintentional, unknowing... temporary noncompliance with more than one CWA effluent discharge pollutant parameter'...The EPA Guidance further defines an 'exceptional' incident as a 'non-routine malfunctioning of an otherwise generally compliant facility.'

9. CWC section 13385(f)(1) states, in part, that:

a single operational upset that leads to simultaneous violations of one or more pollutant parameter shall be treated as a single violation.

10. In accordance with CWC section 13385(f)(1) and the State Water Quality Enforcement Policy, the two serious effluent limitation violations that occurred on 19 February 2008 as result of a single operational upset shall be treated as a single serious effluent limitation violation subject to MMP.
11. The MMP for the one serious effluent limitation violation is **three thousand dollars (\$3,000)**.
12. 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 Title 14, California Code of Regulations, section 15321(a)(2).

**CHEVRON ENVIRONMENTAL MANAGEMENT COMPANY, CHEVRON TEXACO INCORPORATED, and SECOR INTERNATIONAL, INCORPORATED (aka STANTEC CONSULTING INCORPORATED), ARE HEREBY GIVEN NOTICE THAT:**

1. The Assistant Executive Officer of the Central Valley Water Board proposes that the Dischargers be assessed an Administrative Civil Liability in the amount of **three thousand dollars (\$3,000)**.
2. A hearing on this matter will be held at the Central Valley Water Board meeting scheduled **for 5/6 February 2009**, unless the Dischargers do either of the following by **17 December 2008**:
  - 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 **three thousand dollars (\$3,000)**; 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 Board.

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: Technical Staff Memorandum dated 13 November 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 Chevron Environmental Management Company, ChevronTexaco Incorporated, and Stantec Consulting Incorporated (Dischargers) in connection with Administrative Civil Liability Complaint No. R5-2008-0585 (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 Dischargers may have to a hearing before the California Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board) within ninety (90) days of service of the Complaint; and
4.  **(Check here if the Dischargers will waive the hearing requirement and will pay the fine)**
  - a. I certify that the Dischargers will remit payment for the civil liability imposed in the amount of **three thousand dollars (\$3,000)** by check that references "ACL Complaint No. R5-2008-0585." made payable to the "State Water Pollution Cleanup and Abatement Account". Payment must be received by the Central Valley Water Board by **17 December 2008** or this matter will be placed on the Central Valley 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 Central Valley Water Board receive new information or comments during this comment period, the Central Valley 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 Central Valley 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 Dischargers to further enforcement, including additional civil liability.

-or-

5.  **(Check here if the Dischargers 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 Dischargers 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 Dischargers will promptly engage the Central Valley Water Board staff in discussions to resolve the outstanding violation(s). By checking this box, the Dischargers are *not* waiving their right to a hearing on this matter. By checking this box, the Dischargers request that the Central Valley Water Board delay the hearing so that the Dischargers 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 Dischargers agree 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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(Date)



# California Regional Water Quality Control Board Central Valley Region

Karl E. Longley, ScD, P.E., Chair

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<http://www.waterboards.ca.gov/centralvalley>



Arnold  
Schwarzenegger  
Governor

Linda S. Adams  
Secretary for  
Environmental Protection

**TO:** Jo Anne Kipps  
Senior Engineer  
Enforcement Unit

**FROM:** Jeff Hannel  
Engineering Geologist  
Enforcement Unit

**DATE:** 13 November 2008

**SIGNATURE:** \_\_\_\_\_

**SUBJECT: CHEVRON ENVIRONMENTAL MANAGEMENT COMPANY, CHEVRON  
TEXACO INCORPORATED, AND STANTEC CONSULTING CORPORATION,  
PURITY OIL SALES SUPERFUND SITE, FRESNO COUNTY**

Chevron Environmental Management Company, Chevron Texaco Incorporated and Stantec Consulting Corp. (Dischargers), own and operate a Groundwater Treatment System (GWTS) at a former oil recycling facility in Malaga, Fresno County. The United States Environmental Protection Agency is the lead agency for the groundwater cleanup. Treated groundwater is discharged to Fresno Irrigation District (FID) North Central Canal and FID Central Canal under the terms and conditions of Waste Discharge Requirements (WDRs) Order R5-2006-0080 (NPDES Permit CA0083429). The canals discharge to Fresno Slough. Fresno Slough intermittently drains to San Joaquin River, both of which are waters of the United States.

WDR Order No. R5-2006-0080 prescribes, in part, the following effluent limitations:

	<u>Constituent</u>	<u>Units</u>	<u>Maximum Daily</u>
	Iron	µg/L	300
	Manganese	µg/L	50

On 15 August 2008, Central Valley Water Board staff issued the Dischargers a Notice of Violation and a draft Record of Violations for the period of 4 August 2006 through 1 June 2008 for violations of WDRs Order R5-2006-0080. According to the Dischargers' self-monitoring reports, iron (a Category 1 Pollutant) was discharged at a concentration of 15,000 µg/L (greater than 40% over the limitation of 300 µg/L) on 19 February 2008 and manganese (a Category 1 Pollutant) was discharged at a concentration of 430 µg/L (greater than 40% over the limitation of 50 µg/L) on 19 February 2008.

The Dischargers responded by letter dated 4 September 2008. The following discusses the comments and any changes made to the draft Record of Violations based on the Dischargers' comments.

## **Discussion**

The Dischargers acknowledge that Group 1 pollutants iron and manganese were discharged at concentrations of 15,000 µg/L and 430, respectively, on 19 February 2008. These values exceed by greater than 40% the daily maximum effluent limitation of 300 µg/L and 50 µg/L for each of these constituents. The Dischargers claim the defense of a single operational upset for these violations. The Water Quality Enforcement Policy (19 February 2002) provides guidance on how to evaluate and enforce violations resulting from a single operational upset:

A single operational upset which leads to simultaneous violations of one or more pollutant parameters shall be treated as a single violation. EPA defines 'single operational upset' as 'an exceptional incident which causes simultaneous, unintentional, unknowing... temporary noncompliance with more than one CWA effluent discharge pollutant parameter'...The EPA Guidance further defines an 'exceptional' incident as a 'non-routine malfunctioning of an otherwise generally compliant facility.' (page 29)

The Dischargers provided sufficient technical information for staff to evaluate its claim that a single operational upset (i.e., scaling in one of the GWTS treatment units) was the likely cause of the effluent limitation exceedances. Staff concurs that the exceedances were due to a single operational upset and, in accordance with the Water Quality Enforcement Policy, only one violation will result in an MMP. Staff dismissed one of the two effluent limitation violations associated with this single operational upset.

## **MMP Summary**

A revised *Record of Violations*, which identifies the dismissed violations, is provided on the next page.

**Chevron Environmental Management Company, Chevron Texaco, Incorporated  
Secor International Incorporated (aka Stantec Consulting Corporation)  
Groundwater Treatment System, Fresno County**  
RECORD OF VIOLATIONS (4 August 2006 – 1 June 2008) MANDATORY PENALTIES  
(Data reported under Monitoring and Reporting Program No. R5-2006-0080)

<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>	<u>Status</u>
779989	2/19/2008	CAT1	2SMR; Iron; 300; ug/l; D; 15,000	Serious	Violation
779988	2/19/2008	CAT2	2SMR; Manganese; 50; ug/L; D; 430	Serious	Excluded from MMP <sup>5</sup>

- <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., 4M = April); constituent or parameter (e.g., pH, Flow); effluent limitation; units; limitation period; and reported result.  
<sup>4</sup> Serious Violations are subject to MMPs.  
<sup>5</sup> Pursuant to California Water Code Section 13385.1(a)(1).

<u>Abbreviation</u>	<u>Definition</u>
CAT1	Violation of Group 1 effluent limitation as defined in Enforcement Policy
CIWQS	California Integrated Water Quality System database
D	Daily
MMP	Mandatory Minimum Penalty
SMR	Self-Monitoring Report

<b>Final MMP Violation Summary</b>	
<b><u>MMP VIOLATION TYPE</u></b>	<b><u>VIOLATION PERIOD</u></b> <b><u>8/1/2006 TO 6/1/2008</u></b>
Serious Group 1 Effluent Limitation Violations Subject to MMPs:	1
<b>Total Violations Subject to MMPs:</b>	<b>1</b>
<b>Mandatory Minimum Penalty = 1 x \$3,000 = \$3,000</b>	