

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2008-0613

MANDATORY PENALTY  
IN THE MATTER OF

AEROJET-GENERAL CORPORATION GROUNDWATER EXTRACTION AND TREATMENT SYSTEMS, ARGET, GET E/F, GET H, INTERIM GET H, GET K, INTERIM GET K, GET L1, SAILOR BAR PARK WELL AND CHETTENHAM WELL  
SACRAMENTO COUNTY

This Complaint is issued to the Aerojet-General Corporation Groundwater Extraction and Treatment Systems (hereafter Discharger) pursuant to California Water Code (CWC) section 13385, which authorizes the imposition of Administrative Civil Liability, 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 98-113, R5-2002-0128, R5-2004-0027, R5-2006-0013, R5-2007-0165 (NPDES No. CA0083861).

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 fourteen groundwater treatment systems (GETs) in eastern Sacramento and around the cities of Rancho Cordova, Carmichael and Folsom in the County of Sacramento. Currently, eight of those systems discharge to surface water, five discharge to land, and one has ceased operation. A majority of the treated groundwater that is discharged from these treatment systems to surface waters is discharged to the American River or to Buffalo Creek, tributary to the American. One treatment facility discharges to Morrison Creek, tributary to the Sacramento River. The American River, Sacramento River, Buffalo Creek and Morrison Creek are waters of the United States.
2. In 1998, the Central Valley Water Board issued Order 98-113 authorizing the discharge of treated groundwater from the American River Study Area GET and the Sailor Bar Park Well. Subsequently, the Central Valley Water Board issued Orders R5-2002-0128, R5-2004-0027, R5-2006-0013 and R5-2007-0165, which modified prior orders and allowed additional discharges of treated groundwater to surface water by Aerojet. The current order governing the discharges to surface water, Order R5-2008-0118 was issued on 31 July 2008.
3. Past operations at the Aerojet, including rocket testing, and rocket and chemical manufacturing, led to the release of volatile organics, perchlorate, n-nitrosodimethylamine and other pollutants to soils and groundwater. Aerojet has been directed to cleanup the polluted groundwater, and part of Aerojet's response has been to extract the polluted

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groundwater, treat it to remove the pollutants, and then discharge the treated water. The extraction and treatment of polluted groundwater will likely continue for many decades.

4. CWC sections 13385(h) and (i) require assessment of mandatory penalties and state, 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.

CWC section 13385(i)(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 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.
- B) Fails to file a report pursuant to Section 13260.
- C) Files an incomplete report pursuant to Section 13260.
- D) 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.

5. CWC section 13323 states, in 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.

6. WDRs Order R5-2007-0165, Effluent Limitations IV, A.1., include, in part, the following effluent limitations: "The effluent shall not exceed the following limits."

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<u>Constituents</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Daily Maximum</u>
Volatile Organic Contaminants <sup>1</sup>	µg/L	0.5	0.7
perchlorate	µg/L	4	6
formaldehyde	µg/L	50	50
acetaldehyde	µg/L	5	5
pH	pH units	6.5 <sup>2</sup>	8.5 <sup>2</sup>

<sup>1</sup> All volatile organic constituents listed in EPA Methods 8010/8020 or 8260. The concentration of each constituent shall not exceed 0.5 µg/L.

<sup>2</sup> Instantaneous minimum 6.5 and maximum 8.5.

Orders 94-113, R5-2002-0128, R5-2004-0027, R5-2006-0013 contain the same effluent limitations.

7. On 22 August 2008, Board staff issued the Discharger a Notice of Violation and draft Record of Violations identifying violations of WDRs Order Nos. 98-113, R5-2002-0128, R5-2004-0027, R5-2006-0013, and R5-2007-0165 that are subject to mandatory minimum penalties. The draft Record of Violations covers the period from 1 January 2000 through 30 April 2008. No comments were received from the Discharger. Attachment A to this Complaint is the final Record of Violations that identifies three serious violations and one non serious violation that are subject to MMPs during the period from 1 January 2000 through 30 April 2008.
8. The MMP for the one non-serious effluent limitation violation is **three thousand dollars (\$3,000)**. The sum of the MMPs for the three serious violations subject to MMPs is **nine thousand dollars (\$9,000)**. The sum total MMP for these violations is **twelve thousand dollars (\$12,000)**.
9. 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 (Pub. Resources Code section 21000 et seq.), in accordance with California Code of Regulations, title 14, section 15321(a)(2).

**THE AEROJET-GENERAL CORPORATION GROUNDWATER EXTRACTION AND TREATMENT SYSTEMS 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 **twelve thousand dollars (\$12,000)**.
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 17 December 2008**:

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- 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 **twelve thousand dollars (\$12,000)**; 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 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.

Original Signed by: \_\_\_\_\_  
JACK E. DEL CONTE, Assistant Executive Officer

\_\_\_\_\_ 17 November 2008  
(Date)

Attachment A: Record of Violations  
AMM: 11/07/08

**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 the Aerojet-General Corporation (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint R5-2008-0613 (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 Central Valley Regional Water Quality Control Board (Central Valley 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 proposed civil liability in the amount of **twelve thousand dollars (\$12,000)** by check, which will contain a reference to "ACL Complaint R5 2008-0596" and will be 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 at the **5/6 February 2009** Central Valley Water Board meeting.
  - 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 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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(Date)

**ATTACHMENT A  
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2008-0613**

**Aerojet-General Corporation**

**Groundwater Extraction and Treatment Facilities (GETs)**

RECORD OF VIOLATIONS (1 January 2000 – 30 April 2008) MANDATORY PENALTIES  
(Data reported under Monitoring and Reporting Program Nos. 98-113, R5-2002-0128, R5-2004-0027,  
R5-2006-0013, R5-2007-0165)

	<u>Date</u>	<u>Constituent</u>	<u>Units</u>	<u>Limit</u>	<u>Measured</u>	<u>Period Type</u>	<u>Remarks</u>
1	6-Feb-00	trichloroethylene	µg/L	0.5	0.54	monthly	3
2	14-Dec-03	trichloroethylene	µg/L	0.5	0.86	monthly	2
3	10-Mar-04	perchlorate	µg/L	8	8.4	monthly	3
4	5-Jul-05	pH	pH Units	6.5	6.2	daily	3
5	15-Sep-05	trichloroethylene	µg/L	0.5	0.56	monthly	3
6	6-Oct-05	trichloroethylene	µg/L	0.5	0.63	monthly	2
7	6-Mar-06	perchlorate	µg/L	4	4.3	monthly	3
8	6-Jun-06	perchlorate	µg/L	4	460	monthly	3
9	13-Jul-06	perchlorate	µg/L	4	9.4	monthly	3
10	13-Jul-06	trichloroethylene	µg/L	0.5	1.1	monthly	2
11	13-Jul-06	formaldehyde	µg/L	50	51	monthly	4
12	11-Sep-07	perchlorate	µg/L	4	6.3	monthly	3
13	10-Oct-07	perchlorate	µg/L	4	9.3	monthly	3
14	15-Jan-08	acetaldehyde	µg/L	5	5.8	monthly	3

Remarks:

1. Serious Violation: For Group I pollutants that exceed the effluent limitation by 40 percent or more.
2. Serious Violation: For Group II pollutants that exceed the effluent limitation by 20 percent or more.
3. Non-serious violations falls within the first three violations in a six-month period, thus is exempt.
4. Non-serious violation subject to mandatory penalties.

**VIOLATIONS AS OF: 4/30/2008**

Group I Serious Violations:	0
Group II Serious Violations:	3
Non-Serious Exempt from MPs:	10
Non-serious Violations Subject to MPs:	1
<b><u>Total Violations Subject to MPs:</u></b>	<b>4</b>

**Mandatory Minimum Penalty = (3 Serious Violations + 1 Non-Serious Violations) x \$3,000 = \$12,000**