

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

[PROPOSED] ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2015-0510

IN THE MATTER OF

BREITBURN OPERATING L.P.
DOW CHANSLOR LEASE
SOUTH BELBRIDGE OIL FIELD, KERN COUNTY

The California Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board), having held a public hearing on 4/5 June 2015, to receive evidence and comments on the Administrative Civil Liability Order (Stipulated Order or Order) No. R5-2015-0510, having considered all of the evidence and public comments received, on the recommendation of the Central Valley Water Board staff issue an administrative civil liability in the amount of \$67,700 and finds as follows:

Recitals

1. On 15 November 2013, Central Valley Water Board issued California Water Code Orders pursuant to Section 13267 (Section 13267 Order) to multiple owners and operators of oil and gas exploration and production operations in the Central Valley Region. The Discharger was a recipient of one of the Section 13267 Orders. The Section 13267 Order sought information about the: (1) discharges of drilling fluids to land (i.e., including sumps), and (2) discharges of well completion and/or workover fluids to land at any company well during the reporting period from 1 January 2012 to the date the Orders were issued.
2. On 7 February 2014, the Discharger submitted a spreadsheet with the information sought in the Section 13267 Order. The spreadsheet stated that stimulation treatment fluids from 24 wells were discharged to 24 unlined sumps.
3. On 21 May 2014, Central Valley Water Board staff issued a Notice of Violation with a second Section 13267 Order to the Discharger to seek clarifying information about the reported discharges of stimulation treatment fluid from 24 wells to 24 unlined sumps.
4. In response to the 21 May 2014 Section 13267 Order, the Discharger submitted on 16 July 2014 a technical report with additional information about the fluid discharges to sumps. The report stated that six wells had positive pressure at the surface after their final hydraulic fracture treatment stage, which caused 10 barrels (420 gallons) to 20 barrels (840 gallons) of stimulation treatment fluid to discharge into each of six unlined sumps. The report also stated that the other 18 of the 24 wells initially reported in the spreadsheet as having treatment fluid

discharges to sumps did not have positive pressure at the surface after stimulation treatment and that all treatment fluids remained in those wells. After evaluation of the 16 July 2014 report and review of additional information submitted by the Discharger to the California Division of Oil, Gas, and Geothermal Resources, Central Valley Water Board staff determined that the Discharger discharged treatment fluids into the six unlined sumps at the six wells identified in the report for a combined total of 17 days.

Regulatory Considerations

5. The Central Valley Water Board staff has concluded that the Discharger has violated Water Code section 13350 for unpermitted discharges to land. The Central Valley Water Board may assess administrative civil liability based on Water Code section 13350 for such discharges.
6. Water Code section 13350(a) states: “(a) A person who (1) violates a cease and desist order or cleanup and abatement order hereafter issued, reissued, or amended by a regional board or the state board, or (2) in violation of a waste discharge requirement, waiver condition, certification, or other order or prohibition issued, reissued, or amended by a regional board or the state board, discharges waste, or causes or permits waste to be deposited where it is discharged, into the waters of the state ...”
7. Water Code section 13350(e)(2) states: “The state board or a regional board may impose civil liability administratively pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 either on a daily basis or a per gallon basis, but not on both. (2) The civil liability on a per gallon basis shall not exceed ten dollars (\$10) for each gallon of waste discharged.”
8. Water Code section 13327 states: “In determining the amount of civil liability, the regional board . . . shall take into consideration the nature, circumstance, extent, and gravity of the violation or violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and, with respect to the violator, the ability to pay, the effect on ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters as justice may require.”

Settlement Negotiations

9. The Parties engaged in confidential settlement negotiations and agreed to settle the matter without administrative or civil litigation and 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. The Central Valley Water Board Prosecution Team believes that

the resolution of the alleged violations is fair and reasonable and fulfills its enforcement objectives, that no further action is warranted concerning the violations alleged herein and that this Stipulated Order is in the best interests of the public.

10. The Parties agreed to a reduction from the maximum penalty of \$5,000 per day, based on a consideration of the relatively small discharge volumes, reduced potential harm to beneficial uses to groundwater in the South Belridge Oil Field, and the recovery of economic benefit to the Discharger. The economic benefit was calculated as the rental of two Baker tanks from May through July 2013 and the cost of proper disposal of materials. After consideration of the penalty calculation factors, found in the State Water Resources Control Board's (State Water Board) *Water Quality Enforcement Policy*, the Parties agreed that the settlement amount was appropriate in order to resolve their dispute and given the potential threat to water quality and considering the goal of deterring future violations. Further, this reduction was deemed appropriate given the voluntary production of information provided in response to the Section 13267 Orders.
11. To resolve the discharges by consent and without further administrative proceedings, the Parties have agreed to the imposition of \$67,700 in liability against the Discharger, as set forth in Attachment A.
12. On 4 March 2015, the Central Valley Water Board rejected the Parties settlement and requested Central Valley Water Board staff to prepare this ACLO. The 4 March 2015 Order and Hearing Procedures is attached hereto as Attachment B. The 4 March 2015 directive gives the Board the right to modify the ACLO at the 4/5 June 2015 hearing, including the final administrative liability amount.

Order of the Central Valley Water Board

1. In adopting this Order, the Central Valley Water Board has considered, where applicable, each of the factors prescribed in Water Code sections 13327, 13351 and 13385(e). The consideration of these factors is based upon information and comments obtained by the Central Valley Water Board's staff in investigating the allegations concerning the Discharger discussed herein or otherwise provided to the Central Valley Water Board by the Parties and members of the public.
2. 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 21065, 21080(a); 15060(c)(2),(3); 150378(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.

3. 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, 13350, 13385 and Government Code section 11415.60, **IT IS HEREBY ORDERED** by the California Regional Water Quality Control Board, Central Valley Region.

By: _____
Dr. Karl E. Longley,
Board Chair

Date: _____