CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

COMPLAINT NO. R2-2005-0065
MANDATORY MINIMUM PENALTIES
IN THE MATTER OF
CHEVRON, RICHMOND REFINERY
RICHMOND, CONTRA COSTA COUNTY

Pursuant to California Water Code Section 13385, this Complaint is issued to Chevron (hereafter Discharger) to assess mandatory minimum penalties, based on a finding of the Discharger's violations of Waste Discharge Requirements Order No. 01-067 (NPDES No. CA0005134) for the period between December 1, 2001 and September 30, 2005.

The Executive Officer finds the following:

1. On June 20, 2001, the Regional Water Quality Control Board, San Francisco Bay Region, (Water Board) adopted Order No. 01-067 to regulate discharges of waste from the Discharger's facility.

2. Water Code Section 13385(h)(1) requires the Water Board to assess a mandatory minimum penalty (MMP) of three thousand dollars ($3,000) for each serious violation.

3. Water Code Section 13385(h)(2) defines a "serious violation" as any waste discharge of a Group I pollutant that exceeds the effluent limitation contained in the applicable waste discharge requirements by 40 percent or more, or any waste discharge of a Group II pollutant that exceeds the effluent limitation by 20 percent or more.

4. Water Code Section 13385(i) requires the Water 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 six consecutive months:

   (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 discharge limitation contained in the applicable waste discharge requirements where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.

5. Water Code Section 13385(l) allows the Water Board, with the concurrence of the discharger, to direct a portion of the penalty amount to be expended on a supplemental environmental project (SEP) in accordance with the enforcement policy of the State Water Resources Control Board. The discharger may undertake an SEP up to the full amount of the penalty for liabilities less than or equal to $15,000. If the penalty amount exceeds $15,000, the maximum penalty amount that may be expended on a SEP may not exceed $15,000 plus 50 percent of the penalty amount that exceeds $15,000.

6. <u>Effluent Limitations</u>
   Order No. 01-067 includes the following applicable effluent limitations:

EFFLUENT LIMITATIONS

1. The discharge of Waste 001 containing constituents in excess of any of the following mass loading limits is prohibited.

Constituent	Units	Monthly Average	Daily Maximum
Oil & Grease	lbs/day	1,728	3,239
Oil & Grease	mg/L	8	15

2. In addition to the monthly average and daily maximum oil and grease limits shown above, an allocation for oil & grease attributable to stormwater runoff and ballast water discharged as a part of Waste 001 is permitted in accordance with the following limits:

Constituent	Units	Monthly Average	Daily Maximum
Oil & Grease	mg/L	8	15

The total effluent limitation for oil & grease is the sum of the stormwater runoff allocation, the ballast water allocation and the mass limits contained in B.1.

4. The discharge of Waste 001 containing Heptachlor Epoxide in excess of a maximum daily limit of 0.00161 μg/L is prohibited.

5. The discharge of Waste 001 containing mercury in excess of a monthly average limit of 0.075 μg/L.

7. The discharge of wastes from the Richmond Long Wharf and Parr-Richmond Site containing constituents outside of a pH range from 6.5 to 8.5 is prohibited.

7. Summary of Effluent Limit Violations
During the period between December 1, 2001, and September 30, 2005, the Discharger had eight violations of its discharge limits (six wastewater effluent, and two stormwater). For wastewater, these violations include two mercury monthly average violations, three oil and grease violations (one daily maximum, one daily loading, and one monthly average), and one heptachlor epoxide daily maximum violation. For stormwater, these violations include two pH daily maximum violations.

8. Oil & Grease is a Group I Pollutant
One of the oil and grease violations (item 2 in Table 1) is a serious violation since this violation is at least 40% greater than the effluent limitation. For this violation, the Discharger is subject to a penalty of $3,000. The remaining two oil & grease violations (items 3 and 5 in Table 1) are chronic violations. For these violations, the Discharger is not subject to a penalty since there are not at least four violations in the previous six months (see Table 1). The oil and grease limit violations are, in total, subject to a $3,000 penalty.

9. Mercury is a Group II pollutant
The two mercury violations are serious violations since these violations (items 1 and 4 in Table 1) are at least 20% greater than the corresponding effluent limitations. For these violations, the Discharger is subject to a penalty of $6,000.

10. Heptachlor Epoxide is a Group II pollutant
The one-heptachlor epoxide violation (item 7 in Table 1) is a serious violation since this violation is at least 20% greater than the effluent limitation. The heptachlor epoxide violation is subject to a $3,000 penalty.

11. pH is neither a Group I nor Group II pollutant
The two pH limit violations (items 6 and 8 in Table 1) are chronic violations. As there are not at least four chronic violations in the previous six-month period, these violations are not subject to a monetary penalty.

12. Water Code Exception
Water Code Section 13385(j) provides some exceptions related to the assessment of MMPs for effluent limit violations. None of the exceptions apply to the violations cited in this Complaint.

13. Assessment of MMPs
Four of the eight violations are subject to a MMP, as detailed in Table 1. The total MMP amount is $12,000.

14. Suspended MMP Amount
Instead of paying the full penalty amount to the State Water Pollution Cleanup and Abatement Account, the Discharger may spend an amount of up to $12,000 on a SEP acceptable to the Executive Officer. Any such amount expended to satisfactorily complete an SEP will be permanently suspended.

15. SEP Categories
If the Discharger chooses to propose an SEP, the proposed SEP shall be in the following categories:

    1. Pollution prevention;
    2. Pollution reduction;
    3. Environmental clean-up or restoration; and
    4. Environmental education.

CHEVRON IS HEREBY GIVEN NOTICE THAT:

1. The Executive Officer proposes that the Discharger be assessed MMPs in the total amount of $12,000.

2. The Water Board will hold a hearing on this Complaint on **February 8, 2006**, unless the Discharger waives the right to a hearing by signing the included waiver and checks the appropriate box. By doing so, the Discharger agrees to:

   (a) Pay the full penalty of $12,000 within 30 days after the signed waiver becomes effective, or

   (b) Propose a SEP in an amount up to $12,000. Pay the balance of the penalty within 30 days after the signed waiver becomes effective. The sum of the SEP amount and the amount of the fine to be paid to the State Water Pollution Cleanup and Abatement Account shall equal the full penalty of $12,000.

3. If the Discharger chooses to propose a SEP, it must submit a preliminary proposal by 5:00 p.m., **January 17, 2006**, to the Executive Officer for conceptual approval. Any SEP proposal shall also conform to the requirements specified in Section IX of the Water Quality Enforcement Policy, which was adopted by the State Water Resources Control Board on February 19, 2002 and the attached Standard Criteria and Reporting Requirement for Supplemental Environmental Project. If the proposed SEP is not acceptable to the Executive Officer, the Discharger has 30 days from receipt of notice of an unacceptable SEP to either submit a new or revised proposal, or make a payment for the suspended penalty of $12,000. All payments, including any money not used for the SEP, must be payable to the State Water Pollution Cleanup and Abatement Account. Regular reports on the SEP implementation shall be provided to the Executive Officer according to a schedule to be determined. The completion report for the SEP shall be submitted to the Executive Officer within 60 days of project completion.

4. The signed waiver will become effective on the day after the public comment period for this Complaint is closed, provided that there are no significant public comments on this Complaint during the public comment period. If there are significant public comments, the Executive Officer may withdraw the Complaint and reissue it as appropriate.

5. If a hearing is held, the Water Board may impose an administrative civil liability in the amount proposed or for a different amount; decline to seek civil liability; or refer the matter to the Attorney General to have a Superior Court consider imposition of a penalty.

Bruce H. Wolfe
Executive Officer

DEC 1 6 2005
Date

Attachment: Table 1 - Violations

WAIVER

(The signed waiver will become effective on the day after the public comment period for this Complaint is closed, provided that there are no significant public comments on this Complaint during the public comment period. If there are significant public comments, the Executive Officer may withdraw the Complaint and reissue it as appropriate.)

☐ Waiver of the right to a hearing and agree to make payment in full.
By checking the box, I agree to waive my right to a hearing before the Water Board with regard to the violations alleged in Complaint No. R2-2005-0065 and to remit the full penalty payment to the State Water Pollution Cleanup and Abatement Account, c/o State Water Resources Control Board at 1515 Clay Street, Oakland, CA 94612, within 30 days after the signed waiver becomes effective as indicated above. I understand that I am giving up my right to be heard, and to argue against the allegations made by the Executive Officer in this Complaint, and against the imposition of, or the amount of, the civil liability proposed.

☐ Waiver of the right to a hearing and agree to make payment and undertake a SEP.
By checking the box, I agree to waive my right to a hearing before the Water Board with regard to the violations alleged in Complaint No. R2-2005-0065, and to complete a supplemental environmental project (SEP) in lieu of the suspended liability up to $12,000. I also agree to remit payment of the balance of the fine to the State Water Pollution Cleanup and Abatement Account (CAA) within 30 days after the signed waiver becomes effective. I understand that the SEP proposal shall conform to the requirements specified in Section IX of the Water Quality Enforcement Policy, which was adopted by the State Water Resources Control Board on February 19, 2002, and be subject to approval by the Executive Officer. If the SEP proposal, or its revised version, is not acceptable to the Executive Officer, I agree to pay the suspended penalty amount for the SEP within 30 days of a letter from the Executive Officer denying the approval of the proposed SEP. I also understand that I am giving up my right to argue against the allegations made by the Executive Officer in the Complaint, and against the imposition of, or the amount of, the civil liability proposed. I further agree to satisfactorily complete the approved SEP within a time schedule set by the Executive Officer. I understand that failure to adequately complete the approved SEP will require immediate payment of the suspended liability to the CAA.

Name (print)	Signature
Date	Title/Organization

Chevron Richmond Refinery

TABLE 1 - VIOLATIONS

Item	Date of Violation	Effluent Limitation Described E-001 except where noted	Effluent Limit	Reported Value	Type of Violations	Penalty	Start of 180 days[1]
1	12/31/01	Mercury, monthly average (µg/L)	0.075	0.094	C1 (also S)[2]	$3,000	7/4/01
2	12/14/02	Oil & Grease, daily maximum (mg/L)	15	25.7	C1 (also S)	$3,000	6/17/02
3	12/14/02	Oil & Grease, daily loading (lbs/day)	6,474	6,569	C2		6/17/02
4	12/31/02	Mercury, monthly average (µg/L)	0.075	0.106	C3 (also S)	$3,000	7/4/02
5	6/30/03	Oil & Grease, monthly average (mg/L)	8.0	8.56	C1		1/1/03
6	12/1/03	pH (Parr-Richmond Site), daily maximum	8.5	8.58	C2		6/4/03
7	5/5/04	Heptachlor Epoxide, daily maximum (µg/L)	0.00161	0.1	C2 (also S)	$3,000	11/7/03
8	3/22/05	pH (Parr-Richmond Site), daily maximum	8.5	9.1	C1		9/23/04

[1] This column documents the start date for assessing chronic violations. As indicated in Finding No. 4, Water Code Section 13385(i) requires the Water Board to assess a mandatory penalty of three thousand dollars ($3,000) for each violation, not counting the first three violations if the discharger violates an effluent limit four or more times in any six consecutive months.

[2] C = Chronic – The number that follows represents the number of chronic violations in the past 180 days; S = Serious.