

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION**

In the matter of:)	Complaint No. SWB-2008-4-0067
)	Mandatory Minimum Penalty
)	for
Pneumo Abex Aerospace, Inc.)	Violation of California Water Code § 13376
)	and
Oxnard, CA 93030)	Order Nos. 96-027 and R4-2005-0047 (NPDES No. CA0063894)

This Complaint to assess the mandatory minimum penalty pursuant to California Water Code (CWC) § 13385 (h) and (i) and CWC § 13385.1 is issued to Pneumo Abex Aerospace, Inc. (hereinafter Permittee) based on a finding of violations of waste discharge requirements prescribed in Order Nos. 96-027 and R4-2005-0047 (NPDES No. CA0063894, CI No. 7669).

The Assistant Executive Officer of the Regional Water Quality Control Board, Los Angeles Region (Regional Water Board) finds the following:

1. The Permittee operates the Pneumo Abex Aerospace, Inc. facility (facility) located at 3151 West Fifth Street, Oxnard, CA. The Permittee discharges treated groundwater and storm water from Discharge Serial No. 001 (Latitude 34° 11' 23" North, Longitude 119° 15' 14" West) to the Edison Canal. The treated groundwater and storm water is susceptible to containing pollutants, which can degrade water quality and impact beneficial uses of water, and which are defined as wastes under the Porter-Cologne Water Quality Control Act (CWC § 13000 et seq.). The treated groundwater and storm water flows through the West 5th Street Drain to the Edison Canal, a navigable water of the United States.
2. On May 6, 1996 the Regional Water Board adopted Order No. 96-027 (NPDES No. CA0063894) NPDES Permit and Waste Discharge Requirements for the Pneumo Abex Aerospace, Inc. facility.
3. Order No. 96-027 (Part I. page 4) contains effluent limitations for copper, trichloroethylene, and total petroleum hydrocarbons (TPH):

Constituent	Unit of Measure	Discharge Limitations (Daily Maximum)	Discharge Limitations (Monthly Average)
Copper	µg/L	12	--
Trichloroethylene	µg/L	27	--
TPH	µg/L	100	--

4. Only July 7, 2005, the Regional Water Board adopted Order No. R4-2005-0047 (NPDES No. CA0063894) NPDES Permit and Waste Discharge Requirements for the Pneumo Abex Aerospace, Inc. facility.
5. Order No. R4-2005-0047 (Part I.B., page 8) contains effluent limitations for copper, turbidity, and nickel:

Constituent	Unit of Measure	Discharge Limitations (Daily Maximum)	Discharge Limitations (Monthly Average)
Copper ¹	µg/L	5.78	2.9
	lbs/day ²	0.04	0.02
Turbidity	NTU	75	50
Nickel	µg/L	13.6	6.8
	lbs/day ²	0.1	0.05

6. Violations of Order Nos. 96-027 and R4-2005-0047 were noted in the Permittee's self-monitoring report for the 1st quarter of 2000, the 3rd and 4th quarter of 2002, the 1st quarter of 2003, the 2nd quarter of 2006, the 4th quarter of 2008, and the 1st and 2nd quarters of 2009. The violations are identified in Exhibit "A" attached hereto and incorporated herein by reference.
7. Furthermore, the Permittee submitted its quarterly discharge monitoring reports for the 2nd and 4th quarters of 2004 and the 1st, 2nd, and 4th quarters of 2005 more than 30 days after the required deadline specified in its monitoring and reporting program. The violations are identified in Exhibit "A" attached hereto and incorporated herein by reference.
8. On December 9, 2008, the Executive Director of the State Water Resources Control Board (State Water Board) issued the Permittee Offer to Participate in Expedited Payment Program (EPP) No. SWB-2008-4-0067, which included a Notice of Violation notifying the Permittee of the 4th quarter 2002 effluent limitation violation subject to a mandatory minimum penalty.
9. Any discharge containing pollutants violating the effluent limitations set in the waste discharge requirements is prohibited by CWC § 13376.
10. CWC § 13385(h) requires the Regional Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each serious violation. Pursuant to CWC §

¹ Effluent limitations for these metals are expressed in total recoverable.

² Mass-based effluent limitations for pollutants are based on a maximum discharge flow rate of 600 gallons per minute (864,000 gallons per day).

13385(h)(2) "a serious violation is defined as any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group II pollutant by 20 percent or more, or for a Group I pollutant by 40 percent or more. Appendix A of Part 123.45 of Title 40 of the Code of Federal Regulations specifies the Group I and II pollutants."

11. CWC § 13385(i) requires the Regional Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each violation whenever the permittee violates a waste discharge requirement effluent limitation 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 within that time period
12. CWC § 13385.1 (a)(1) requires the Regional Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for a "serious violation" defined by that section as "a failure to file a discharge monitoring report required pursuant to Section 13323 for each complete period of 30 days following the deadline for submitting the report, if the report is designed to ensure compliance limitations contained in waste discharge requirements that contain effluent limitations. This section applies to violations occurring on or after January 2004.
13. The maximum amount of discretionary administrative civil liability assessable pursuant to CWC § 13385 for each day of violation is \$10,000 per day of violation plus \$10 times the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.

YOU ARE HEREBY GIVEN NOTICE THAT:

14. The Assistant Executive Officer proposes that the Permittee be assessed a mandatory minimum penalty in the amount of \$147,000 for the violations cited in Exhibit "A." Refer to Exhibit "A" for the calculation of the amount of mandatory minimum penalty.
15. The Permittee may waive the right to a hearing and pay the recommended administrative civil liability. Should the Permittee choose to waive its right to a hearing, an authorized agent must sign the waiver form attached to this Complaint and return it to the Regional Board by 5:00 pm on November 20, 2009. If the hearing is waived, a check in the amount of \$147,000 (payable to the State Water Pollution Cleanup and Abatement Account) must be received by the Regional Board by 5:00 pm on November 20, 2009.
16. If the Regional Board does not receive a waiver and full payment of the recommended penalty by November 20, 2009, the Complaint will be heard before the Regional Board or Regional Board Hearing Panel pursuant to California Water Code §§ 13228.14 and 13323. The Notice of Public Hearing contains that date, time, location, and specific procedures of the scheduled hearing of this matter.
17. If a hearing on this matter is held, the Regional Water Board will consider whether to affirm, reject, or modify (i.e. increase the proposed civil liability above the mandatory

minimum) the proposed civil liability, or whether to refer the matter to the Attorney General for assessment of judicial civil liability.

18. There are no statutes of limitation that apply to administrative proceedings. The statutes of limitation that refer to "actions" and "special proceedings" and are contained in the California Code of Civil Procedure apply to judicial proceedings, not administrative proceeding. See *City of Oakland v. Public Employees' Retirement System* (2002) 95 Cal. App. 4th 29, 48; 3 Witkin, Cal. Procedure (4th ed. 1996) Actions, §405(2), p. 510.)
19. Notwithstanding the issuance of this Complaint, the Regional Board shall retain the authority to assess additional penalties for violations of the requirements of the Permittee's waste discharge requirements for which penalties have not yet been assessed or for violations that may subsequently occur.
20. This enforcement action is exempt from the provisions of the California Environmental Quality Act, California Public Resources Code § 21000 et seq., in accordance with California Code of Regulations, title 14, § 15321.
21. Regulations of the US Environmental Protection Agency require public notification of any proposed settlement of the civil liability occasioned by violation of the Clean Water Act including NPDES permit violations. Accordingly, interested persons will be given 30 days to comment on any proposed settlement of this Complaint.



Samuel Unger, P. E.
Assistant Executive Officer
Los Angeles Regional Water Quality Control Board

October 30, 2009

WAIVER FORM

FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. SWB-2008-4-0067

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

I am duly authorized to represent Plaskolite West, Inc. (hereinafter "Permittee") in connection with Administrative Civil Liability Complaint No. SWB-2008-4-0067 (hereinafter the "Complaint"). 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]. The person who has been issued a complaint may waive the right to a hearing."

(Check here if the Permittee waives the hearing requirement and will pay the recommended liability.)

- a. I hereby waive any right the Permittee may have to a hearing before the Regional Water Board.
- b. I certify that the Permittee will remit payment for the civil liability imposed in the amount of **\$147,000** by check that references "ACL Complaint No. SWB-2008-4-0067" made payable to the "*Cleanup and Abatement Account*". Payment must be received by the Regional Water Board by November 20, 2009 or this matter will be placed on the Regional Board's agenda for a hearing as initially proposed in the Complaint.
- c. I understand the payment of the above amount constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after the 30-day public notice and comment period expires. Should the Regional Water Board receive significant new information or comments from any source (excluding the Water Board's Prosecution Team) during this comment period, the Regional Water Board's Assistant Executive Officer may withdraw the complaint, return payment, and issue a new complaint. I understand that this proposed settlement is subject to approval by the Regional Water Board, and that the Regional Water Board may consider this proposed settlement in a public meeting or hearing. I also understand that approval of the settlement will result in the Permittee having waived the right to contest the allegations in the Complaint and the imposition of civil liability.
- d. 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 Permittee to further enforcement, including additional civil liability.

(Print Name and Title)

(Signature)

(Date)

EXHIBIT "A" - NOTICE OF VIOLATION

Effluent Limit Violations

Date	Monitoring Period	Violation Type	Parameter	Reported Value	Permit Limit	Units	Pollutant Category	% Exceeded	Serious/Chronic	Water Code Section 13385	Penalty
02/07/00	1st Quarter 2000	Daily Maximum	Trichloroethylene	39	27	ug/L	2	44%	Serious	(h)1	\$3,000
07/17/02	3rd Quarter 2002	Daily Maximum	TPH	500	100	ug/L	2	400%	Serious	(h)1	\$3,000
12/11/02	4th Quarter 2002	Daily Maximum	Copper	19	12	ug/L	2	58%	Serious	(h)1	\$3,000
02/13/03	1st Quarter 2003	Daily Maximum	TPH	110	100	ug/L	2	10%	Chronic	(i)1	\$0
06/26/06	2nd Quarter 2006	Daily Maximum	Turbidity	750	75	NTU	OEV	NA	Chronic	(i)1	\$0
06/26/06	2nd Quarter 2006	Monthly Average	Turbidity*	750	50	NTU	OEV	NA	Chronic	(i)1	\$0
11/05/08	4th Quarter 2008	Monthly Average	Turbidity*	58.8	50	NTU	OEV	NA	Chronic	(i)1	\$0
02/11/09	1st Quarter 2009	Daily Maximum	Copper	7.54	5.78	ug/L	2	30%	Serious	(h)1	\$3,000
02/11/09	1st Quarter 2009	Monthly Average	Copper*	7.54	2.9	ug/L	2	160%	Serious	(h)1	\$3,000
02/11/09	1st Quarter 2009	Daily Maximum	Nickel	38.4	13.6	ug/L	2	182%	Serious	(h)1	\$3,000
02/11/09	1st Quarter 2009	Monthly Average	Nickel*	38.4	6.8	ug/L	2	465%	Serious	(h)1	\$3,000
03/09/09	1st Quarter 2009	Daily Maximum	Copper	71.5	5.78	ug/L	2	1137%	Serious	(h)1	\$3,000
03/09/09	1st Quarter 2009	Daily Maximum	Nickel	48.7	13.6	ug/L	2	258%	Serious	(h)1	\$3,000
03/09/09	1st Quarter 2009	Daily Maximum	Copper*	0.052	0.04	lbs/day	2	30%	Serious	(h)1	\$3,000
03/16/09	1st Quarter 2009	Daily Maximum	Copper	21.2	5.78	ug/L	2	267%	Serious	(h)1	\$3,000
03/16/09	1st Quarter 2009	Daily Maximum	Nickel	77.7	13.6	ug/L	2	471%	Serious	(h)1	\$3,000
03/16/09	1st Quarter 2009	Monthly Average	Turbidity*	52.5	50	NTU	OEV	NA	Chronic	(i)1	\$3,000
03/23/09	1st Quarter 2009	Daily Maximum	Copper	31.3	5.78	ug/L	2	442%	Serious	(h)1	\$3,000
03/23/09	1st Quarter 2009	Daily Maximum	Nickel	403	13.6	ug/L	2	2863%	Serious	(h)1	\$3,000
03/23/09	1st Quarter 2009	Daily Maximum	Nickel*	0.29	0.1	lbs/day	2	190%	Serious	(h)1	\$3,000
03/30/09	1st Quarter 2009	Monthly Average	Copper*	32.1	2.9	ug/L	2	1007%	Serious	(h)1	\$3,000
03/30/09	1st Quarter 2009	Monthly Average	Nickel*	134.5	6.8	ug/L	2	1878%	Serious	(h)1	\$3,000
03/30/09	1st Quarter 2009	Monthly Average	Nickel*	0.097	0.05	lbs/day	2	94%	Serious	(h)1	\$3,000
04/06/09	2nd Quarter 2009	Daily Maximum	Copper	14	5.78	ug/L	2	142%	Serious	(h)1	\$3,000
04/06/09	2nd Quarter 2009	Daily Maximum	Nickel	18	13.6	ug/L	2	32%	Serious	(h)1	\$3,000
04/06/09	2nd Quarter 2009	Daily Maximum	Turbidity	76.4	75	NTU	OEV	NA	Chronic	(i)1	\$3,000
04/13/09	2nd Quarter 2009	Daily Maximum	Copper	10.6	5.78	ug/L	2	83%	Serious	(h)1	\$3,000
04/20/09	2nd Quarter 2009	Daily Maximum	Copper	6.3	5.78	ug/L	2	9%	Chronic	(i)1	\$3,000
04/20/09	2nd Quarter 2009	Daily Maximum	Nickel	17.5	13.6	ug/L	2	29%	Serious	(h)1	\$3,000
04/27/09	2nd Quarter 2009	Daily Maximum	Copper	8.68	5.78	ug/L	2	50%	Serious	(h)1	\$3,000
04/27/09	2nd Quarter 2009	Daily Maximum	Nickel	19	13.6	ug/L	2	40%	Serious	(h)1	\$3,000
04/30/09	2nd Quarter 2009	Monthly Average	Copper*	9.9	2.9	ug/L	2	241%	Serious	(h)1	\$3,000
04/30/09	2nd Quarter 2009	Monthly Average	Nickel*	16.98	6.8	ug/L	2	150%	Serious	(h)1	\$3,000
05/04/09	2nd Quarter 2009	Daily Maximum	Nickel	18.1	13.6	ug/L	2	33%	Serious	(h)1	\$3,000

* Staff Calculation

Effluent Limit Violations

Date	Monitoring Period	Violation Type	Parameter	Reported Value	Permit Limit	Units	Pollutant Category	% Exceeded	Serious/Chronic	Water Code Section 13385	Penalty
05/11/09	2nd Quarter 2009	Daily Maximum	Copper	41.5	5.78	ug/L	2	618%	Serious	(h)1	\$3,000
05/11/09	2nd Quarter 2009	Daily Maximum	Nickel	74.6	13.6	ug/L	2	449%	Serious	(h)1	\$3,000
05/18/09	2nd Quarter 2009	Daily Maximum	Copper	8.74	5.78	ug/L	2	51%	Serious	(h)1	\$3,000
05/18/09	2nd Quarter 2009	Daily Maximum	Nickel	14.7	13.6	ug/L	2	8%	Chronic	(i)1	\$3,000
05/26/09	2nd Quarter 2009	Daily Maximum	Copper	7.33	5.78	ug/L	2	27%	Serious	(h)1	\$3,000
05/26/09	2nd Quarter 2009	Daily Maximum	Nickel	22.9	13.6	ug/L	2	68%	Serious	(h)1	\$3,000
05/31/09	2nd Quarter 2009	Monthly Average	Copper*	15.84	2.9	ug/L	2	446%	Serious	(h)1	\$3,000
05/31/09	2nd Quarter 2009	Monthly Average	Nickel*	32.58	6.8	ug/L	2	379%	Serious	(h)1	\$3,000
06/01/09	2nd Quarter 2009	Daily Maximum	Nickel	15	13.6	ug/L	2	10%	Chronic	(i)1	\$3,000
06/08/09	2nd Quarter 2009	Daily Maximum	Copper	6.5	5.78	ug/L	2	12%	Chronic	(i)1	\$3,000
06/08/09	2nd Quarter 2009	Daily Maximum	Nickel	16.9	13.6	ug/L	2	24%	Serious	(h)1	\$3,000
06/30/09	2nd Quarter 2009	Monthly Average	Copper*	6	2.9	ug/L	2	107%	Serious	(h)1	\$3,000
06/30/09	2nd Quarter 2009	Monthly Average	Nickel*	15.95	6.8	ug/L	2	135%	Serious	(h)1	\$3,000
										Total	\$129,000

* Staff Calculation

Late Reporting Violations

Reporting Period	Violation Type	Due Date	Received Date	Days Late	# of Complete 30-Day Periods	Serious/ Chronic	Water Code Section 13385	Amount Per 30-Day Period	Penalty
2nd Quarter 2004	Late Report	07/15/2004	08/24/2004	40	1	Serious	(h)(1)	\$3,000	\$3,000
4th Quarter 2004	Late Report	01/15/2005	03/29/2005	73	2	Serious	(h)(1)	\$3,000	\$6,000
1st Quarter 2005	Late Report	04/15/2005	06/01/2005	47	1	Serious	(h)(1)	\$3,000	\$3,000
2nd Quarter 2005	Late Report	07/15/2005	08/31/2005	47	1	Serious	(h)(1)	\$3,000	\$3,000
4th Quarter 2005	Late Report	02/01/2006	03/09/2006	36	1	Serious	(h)(1)	\$3,000	\$3,000
							Total		\$18,000
							Settlement Total		\$147,000