

ENFORCEMENT HEARING

STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

STAFF SUMMARY REPORT (Farhad Azimzadeh)
MEETING DATE: June 16, 2004

ITEM: 6

SUBJECT: **Monsanto Company, Vishay General Semiconductor, Inc.,
SmithKlineBeecham Corporation dba GlaxoSmithKline, and Gould
Electronics, Inc., 3400 Hillview Avenue, Palo Alto, Santa Clara
County - Hearing to Consider Mandatory Minimum Penalty (MMP) for
Discharge of Partially Treated Wastewater to Waters of the State**

CHRONOLOGY: July 1999 – VOC General NPDES Permit reissued
August 1999 – Discharge under VOC Permit authorized

DISCUSSION: Monsanto Company, Vishay General Semiconductor, Inc.,
SmithKlineBeecham Corporation dba GlaxoSmithKline, and Gould
Electronics, Inc. (the Dischargers) operate a groundwater extraction and
treatment system at their solvent cleanup site in Palo Alto. For the period
from June 19, 2003, through June 23, 2003, the Dischargers documented
two effluent limit violations of trichloroethylene at concentrations
exceeding the effluent limit of 5.0 ug/l by more than 20%.

We issued a \$6,000 Mandatory Minimum Penalty (MMP) Complaint to
the Dischargers in April (Appendix A). The Dischargers waived their
right to a hearing and submitted a check for \$6,000.

RECOMMEN-
DATION: No action required

File No. 2189.8361 & 1210.48 (FA)

Appendix A - MMP Complaint and signed waiver

Appendix A - MMP Complaint and signed waiver

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

COMPLAINT NO. R2-2003-0101
MANDATORY MINIMUM PENALTY
IN THE MATTER OF
MONSANTO COMPANY, VISHAY GENERAL SEMICONDUCTOR INC.,
SMITHKLINE BEECHAM CORPORATION D/B/A GLAXOSMITHKLINE, AND
GOULD ELECTRONICS INC.
3400 HILLVIEW AVENUE
PALO ALTO, SANTA CLARA COUNTY

This Complaint assessing Mandatory Minimum Penalty (MMP) pursuant to California Water Code Section 13385(h) is issued to Monsanto Company, Vishay General Semiconductor Inc., SmithKline Beecham Corporation d/b/a GlaxoSmithKline, and Gould Electronics Inc. (hereinafter Dischargers) based on a finding of two serious effluent violations of Order No. 99-051, as amended by Order No. R2-2002-0062, NPDES Permit No. CAG912003, general waste discharge requirements for discharge or reuse of extracted and treated groundwater resulting from the cleanup of groundwater polluted by volatile organic compounds (VOC General NPDES Permit).

The Executive Officer finds the following:

1. The Regional Water Quality Control Board (Water Board) adopted the VOC General NPDES Permit on July 21, 1999 and amended this Permit on June 19, 2002. The Dischargers applied for and received a letter dated August 19, 1999, authorizing the discharge of treated groundwater under the VOC General NPDES Permit.
2. The VOC General NPDES Permit prohibits the discharge of effluent containing trichloroethylene (TCE) with concentrations exceeding the 5.0 microgram per liter ($\mu\text{g/l}$) effluent limit.
3. The Dischargers submitted a report dated July 1, 2003, showing that effluent samples collected from the treatment facility on the date listed in the table below contained TCE at concentrations that exceeded the corresponding instantaneous maximum limit. The Dischargers reported no other exceedances of effluent limitations during the six-month periods before and after the dates of these violations.

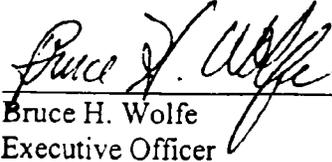
Sample No.	Sampling Date	Regulated Compound	Test Result ($\mu\text{g/L}$)	NPDES Limit ($\mu\text{g/L}$)	Limit Exceedance	MMP
1	6/19/03	TCE	9.7	5	94%	\$3,000
2	6/23/03	TCE	8.0	5	60%	\$3,000
Definition: TCE = Trichloroethylene					Total:	\$6,000

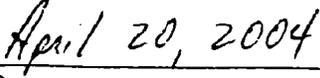
4. Water Code Section 13385(h)(1) requires the Water Board to assess an MMP of \$3,000 for serious NPDES violations. A serious violation includes discharge of effluent containing any Group II pollutant in a concentration that exceeds the established maximum limits by 20 percent or more. TCE is considered a Group II pollutant. The test results indicate serious violations.

5. The Dischargers committed two serious violations on June 19 and 23, 2003. The total amount of the MMP for these serious violations is \$6,000. Section 13385 allows the Dischargers to spend the full \$6,000 of this MMP on a Supplemental Environmental Project (SEP).
6. Issuance of this Complaint is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000, et seq.), in accordance with Section 15321(a)(2), Title 14, California Code of Regulations.

MONSANTO COMPANY, VISHAY GENERAL SEMICONDUCTOR INC., SMITHKLINE BEECHAM CORPORATION D/B/A GLAXOSMITHKLINE, AND GOULD ELECTRONICS INC. ARE HEREBY GIVEN NOTICE THAT:

1. The Executive Officer of the Water Board proposes that the Dischargers be assessed an MMP in the amount of \$6,000 that will be suspended if the Dischargers fund an acceptable SEP in the amount of \$6,000.
2. The Water Board will hold a hearing on this Complaint on June 16, 2004, unless the Dischargers waive the right to a hearing by signing the last page of this Complaint and checking the appropriate box. By doing so, the Dischargers must either pay the full penalty of \$6,000 or submit an acceptable SEP proposal in an amount of \$6,000 by May 21, 2004. Any 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. If the proposed SEP is not acceptable to the Executive Officer, the Dischargers have 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 amount. All payment, including any money not expended 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.
3. The signed ~~waiver~~ becomes effective the next 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.
4. If a hearing is held, the Water Board will consider whether to affirm, reject, or modify the proposed penalty, or whether to refer the matter to the Attorney General for recovery of the civil liability.



Bruce H. Wolfe
Executive Officer


Date

WAIVER OF HEARING FORM

(The signed waiver becomes effective the next 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. R2-2003-0101 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, by May 21, 2004. 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 mandatory minimum penalty proposed.

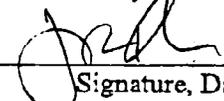
Waiver of the right to a hearing and agree to undertake a SEP.

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. R2-2003-0101 and to complete a supplemental environmental project (SEP) in lieu of the suspended penalty in an amount of \$6,000. I also agree to submit the SEP proposal by May 21, 2004. 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 within thirty days of a letter from the Executive Officer denying the approval of the proposed SEP. 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 mandatory minimum penalty proposed. I further agree to complete the approved SEP within a time schedule set by the Executive Officer.

JEFFREY KLIEVE, DIR. ENV AFFAIRS

Name (print), Title/ Monsanto Company

ON BEHALF OF PHARMACIA (S/K/A MONSANTO COMPANY)

 5/19/04
Signature, Date

Name (print), Title/ Vishay General Semiconductor Inc.

Signature, Date

Name (print), Title/ SmithKline

Beecham Corporation d/b/a GlaxoSmithKline

Signature, Date

Name (print), Title/ Gould Electronics Inc.

Signature, Date

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Name (print), Title/ Monsanto Company

Signature, Date

Donald M. Clark, VP

Donald M. Clark 16 May 2004

Name (print), Title/ Vishay General Semiconductor Inc.

Signature, Date

Name (print), Title/ SmithKline
Beecham Corporation d/b/a GlaxoSmithKline

Signature, Date

Name (print), Title/ Gould Electronics Inc.

Signature, Date

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2004

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Name (print), Title/ Monsanto Company

Signature, Date

Name (print), Title/ Vishay General Semiconductor Inc.

Signature, Date

PAUL R. NOLL / VP - ASSOC. GEN. COUNSEL

Name (print), Title/ SmithKline
Beecham Corporation d/b/a GlaxoSmithKline



Signature, Date

17 MAY 2004

Name (print), Title/ Gould Electronics Inc.

Signature, Date

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Signature, Date

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Signature, Date

Name (print), Title/ SmithKline
Beecham Corporation d/b/a GlaxoSmithKline

Signature, Date

JAMES F. CROMMILLER
DIR. CORP. ENV. AFFAIRS

Name (print), Title/ Gould Electronics Inc.

James F. Crommiller 14 May 04

Signature, Date