

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN FRANCISCO BAY REGION**

In the matter of: )  
)  
**VALERO REFINING** ) **SETTLEMENT AGREEMENT AND**  
**COMPANY-CALIFORNIA,** ) **STIPULATION FOR ENTRY OF**  
**SOLANO COUNTY** ) **ADMINISTRATIVE CIVIL LIABILITY**  
)  
**Improper Operation of Treatment** ) **ORDER No.**

<b>PROPOSED</b>
-----------------

  
**System Resulting in Effluent Limit** )  
**Violations** )  
)  
)

**Section I: INTRODUCTION**

1. This Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order (Stipulated Order) is entered into by and between the California Regional Water Quality Control Board, San Francisco Bay Region, Prosecution Team (Prosecution Team), and Valero Refining Company-California (Settling Respondent) (collectively Parties), and is presented to the California Regional Water Quality Control Board, San Francisco Bay Region (Regional Water Board), or its delegate, for adoption as an Order by settlement, pursuant to Government Code section 11415.60. This Stipulated Order resolves the violations alleged herein by the imposition of administrative civil liability against Settling Respondent in the amount of **\$179,000**.

**Section II: RECITALS**

2. The Settling Respondent owns and operates the Valero Benicia Refinery (Refinery) located at 3400 East Second Street, Benicia CA 94510.
3. The Refinery discharges wastewater and stormwater to Suisun Bay and Carquinez Strait, waters of the State and United States within the Suisun Basin watershed.
4. The Refinery operations are regulated pursuant to National Pollutant Discharge Elimination System NPDES Permit No. CA0005550, Order R2-2015-0037 (Permit).
5. Pursuant to California Water Code section 13260, the Settling Respondent filed a Report of Waste Discharge and submitted an application for reissuance of its Waste Discharge Requirements (WDRs) and NPDES permit on June 26, 2014. The WDRs contain, among other items, prohibitions, effluent limitations, and monitoring and reporting requirements with which the Settling Respondent must comply.

6. The Refinery can process 165,000 barrels per day of crude oil, producing hydrocarbon products, byproducts, and intermediates. The Refinery wastewaters include asphalt plant wastewater, sour water (i.e., process wastewater containing significant hydrogen sulfide), crude water from onsite and offsite storage facilities, cooling tower and steam boiler blowdown, raw water treatment backwash, process area stormwater runoff, and miscellaneous wastewaters.
7. The combined wastewater is treated first by an activated sludge treatment system consisting of aeration cells with corresponding clarifiers, then an induced air flotation system that floats residual solids, and finally a reactor clarifier that co-precipitates selenium as selenite using ferric chloride, pH adjustment, and polymer addition to enhance flocculation. The resulting iron sludge can then be reused or disposed of.
8. Water that passes through all the above treatment steps is then discharged to Suisun Bay through a submerged diffuser approximately 1,100 feet offshore.
9. Provision IV.A (Table 4) of the Permit contains, in part, the following effluent limitations with which the Settling Respondent is required to maintain compliance at Discharge Point No. 001:

Parameter	Units	Effluent Limitations	
		Maximum Daily	Average Monthly
Biochemical Oxygen Demand, 5-day @ 20°C (BOD <sub>5</sub> )	lbs/day	3,400	1,900
Chemical Oxygen Demand (COD)	lbs/day	24,000	13,000
Oil and Grease	lbs/day	1,000	550
Phenolic Compounds (4AAP)	lbs/day	25	12
Sulfide	lbs/day	21	10
Total Suspended Solids (TSS)	lbs/day	2,400	1,500
Total Ammonia, as N	lbs/day	2,000	1,000
	mg/L	20	5.7
Total Chromium	lbs/day	46	16
Chromium (VI)	lbs/day	2.9	1.3
	µg/L	72	36
Bis(2-Ethylhexyl)Phthalate	µg/L	110	53
Chronic Toxicity	TUc	10	---
Copper, Total Recoverable	µg/L	120	58
Cyanide, Total	µg/L	42	19
Dioxin-TEQ	µg/L	$2.8 \times 10^{-8}$	$1.4 \times 10^{-8}$
Selenium, Total Recoverable	µg/L	50	42
pH	standard units	6.0 – 9.0	

10. On January 18, 2016, the Settling Respondent discharged partially treated wastewater into waters of the State and United States, violating the Permit. Operator error on January 18, 2016, resulted in the failure of the iron co-precipitation unit to maintain a stable sludge bed inside the reactor clarifier, resulting in the discharge of partially treated wastewater. The effluent exceeded the daily loading limit for TSS, as well as the daily and monthly concentration limits for selenium:

Date	Parameter	Effluent Limitation	Reported Value
1/18/2016	TSS	2,400 lbs/day	5265 lb/day
1/18/2016	Selenium	50 µg/L (Max Daily)	110 µg/L
1/18/2016	Selenium	42 µg/L (Avg Monthly)	42.75 µg/L

11. Pursuant to Water Code section 13385, subdivisions (a)(2), (c)(1), and (c)(2), the violations listed above are subject to administrative civil liabilities of up to \$10,000 per violation for each day in which the violation occurred and \$10 per gallon discharged in excess of the first 1,000 gallons.
12. The Settling Respondent's self-monitoring report for December 2014 indicates that the wastewater discharged from the Refinery exceeded the effluent limitations for cyanide set forth in the Permit on six (6) occasions.
13. Water Code section 13385, subdivision (h)(1), requires the Regional Water Board to assess a mandatory minimum penalty (MMP) of three thousand dollars (\$3,000) for each serious violation.
14. Water Code section 13385, subdivision (h)(2), defines a "serious violation" as "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." Five (5) of the December 2014 cyanide violations are subject to MMPs under Water Code section 13385, subdivision (h).
15. On October 13, 2016, the Prosecution Team issued Administrative Civil Liability Complaint No. R2-2015-1024 (Complaint) to the Settling Respondent, proposing penalties totaling \$197,000, including \$15,000 in MMPs. The Complaint is attached hereto as **Attachment A** and incorporated herein by reference.
16. To resolve the alleged violations in Section II, paragraphs 2 to 15, by consent and without further administrative proceedings, the Parties have agreed to the imposition of an administrative civil liability of **\$179,000** against the Settling Respondent.
17. The settlement amount is less than the liability amount the Prosecution Team asserted using Steps 1 through 10 of the State Water Resources Control Board's (State Water Board's) Water Quality Enforcement Policy (May 2010) (Enforcement Policy) as shown in **Attachment A**. The settlement is less because the Settling Respondent presented additional evidence showing the timing of the January 18, 2016, spill, noting that it occurred between 10:00 and 18:00 hours, rather than 10:00 to 19:00 hours as originally reported, resulting in a total discharge volume calculation change from 1.13 million gallons to 1.11 million gallons. Furthermore, in light of the risk of potentially drawn out and costly litigation, the Parties have agreed to reduce the asserted liability by \$18,500, for a total liability of **\$179,000**. Payment of \$89,500

to the State Water Pollution Cleanup and Abatement Account is due no later than 30 days following the Regional Water Board executing this Order. The remaining \$89,500 in penalties shall be suspended upon completion of a Supplemental Environmental Project (SEP).

18. The Parties have agreed to settle the matter without administrative or civil litigation, and to present this Stipulated Order to the Regional Water Board, or its delegate, for adoption as a Stipulated Order by settlement, pursuant to Government Code section 11415.60.
19. The Prosecution Team believes that the resolution of the alleged violations is fair and reasonable and fulfills all of its enforcement objectives, that no further action is warranted concerning these violations except as provided in this Stipulated Order, and that this Stipulated Order is in the public's best interest.

### **Section III: STIPULATIONS**

The Parties incorporate the foregoing Recitals and stipulate to the following:

20. **Administrative Civil Liability:** The Settling Respondent hereby agrees to the imposition of an administrative civil liability totaling **\$179,000** to resolve the alleged violations as set forth in Section II as follows:
  - a. No later than 30 days after the Regional Water Board, or its delegate, signs this Stipulated Order, the Settling Respondent shall submit a check for \$89,500 made payable to the "State Water Pollution Cleanup and Abatement Account," referring to the Order number on page one of this Stipulated Order and mailing it to:

State Water Resources Control Board Accounting Office  
Attn: ACL Payment  
P.O. Box 1888  
Sacramento, CA 95812-1888
  - b. The Settling Respondent agrees that \$89,500 of the administrative liability amount shall be paid to the Regional Monitoring Program care of the San Francisco Estuary Institute for implementation of a SEP as follows:
    - i. \$89,500 (SEP Amount) shall be paid solely for use toward the SEP Fund for the San Francisco Bay Regional Monitoring Program. The SEP Amount shall be used for a selenium study. The goal of the study is to develop and pilot test a selenium monitoring program in Suisun Bay. A complete description of this project is provided in **Attachment B**.

- ii. An additional \$4,500 shall be paid to the San Francisco Estuary Institute for administration and oversight costs associated with the study described above.
  - iii. These payments shall be made no later than 30 days after the Regional Water Board, or its delegate, signs this Stipulated Order. All payments associated with the SEP shall be in the form of a single check payable to the “Regional Monitoring Program,” referring to the Order number on page one of this Stipulated Order, and mailed to Regional Monitoring Program c/o San Francisco Estuary Institute, 4911 Central Avenue, Richmond, CA 94804. A copy of the check shall be emailed to the Office of Enforcement and the Regional Water Board at the addresses set forth above.
21. **Supplemental Environmental Project:** The Parties agree that, upon the Settling Respondent paying the SEP Amount and oversight costs, the SEP Amount will be treated as a suspended administrative civil liability for purposes of this Stipulated Order. The Settling Respondent’s SEP obligations will be satisfactorily completed upon the San Francisco Estuary Institute’s written notification to Regional Water Board staff and Settling Respondent acknowledging that the Regional Monitoring Program received payment of the SEP Amount and oversight costs from the Settling Respondent and the payment will be spent on the project described in Section III, paragraph 20(b)(i), in accordance with the terms of this Stipulated Order. The San Francisco Estuary Institute’s annual and quarterly financial reports to the Regional Water Board shall be considered a final post-project accounting of expenditures.
22. **Publicity Associated with the SEP:** Whenever Settling Respondent or its agents or subcontractors publicize one or more elements of the SEP, they shall state in a prominent manner that the project is undertaken as part of a settlement to a Regional Water Board enforcement action against the Settling Respondent.
23. **Regional Water Board is not Liable:** Neither the Regional Water Board, its members, nor staff shall be held as parties to, or guarantors of, any contract entered into by Settling Respondent, its directors, officers, employees, agents, representatives, or contractors in carrying out activities pursuant to this Stipulated Order.
24. **Compliance with Applicable Laws:** Settling Respondent understands that payment of the administrative civil liability in accordance with the terms of this Stipulated Order and compliance with the terms of this Stipulated Order are not a substitute for compliance with applicable laws, and that continuing violations of the type alleged herein may subject it to further enforcement, including additional administrative civil liability.

**25. Party Contacts for Communications related to this Stipulation and Order:**

**For the Regional Water Board:**

San Francisco Bay Regional Water  
Quality Control Board  
Habte Kifle, staff  
1515 Clay Street, 14<sup>th</sup> Floor  
Oakland, CA 94612  
Habte.Kifle@waterboards.ca.gov  
(510) 622-2371

**For Settling Respondent:**

Valero Refining Company-California  
Iren Suhami, Acting Env. Manager  
3400 East Second Street  
Benicia, California, 94510-1097  
Iren.Suhami@valero.com  
(707) 745-7635

26. **Attorney's Fees and Costs:** Except as otherwise provided herein, Regional Water Board and Settling Respondent shall bear all attorneys' fees and costs arising from the each's own counsel in connection with the matters set forth herein.
27. **Matters Addressed by this Stipulation:** Upon the Regional Water Board's or its delegate's adoption, this Stipulated Order represents a final and binding resolution and settlement of the alleged violations as of the effective date of this Stipulated Order. The provisions of this paragraph are expressly conditioned on the full payment of the administrative civil liability by the deadlines specified in Section III, paragraph 16, and Settling Respondent's full satisfaction of the obligations described in Section III, paragraph 20.
28. **Public Notice:** The Settling Respondent understands that this Stipulated Order must be noticed for a 30-day public review and comment period prior to consideration by the Regional Water Board or its delegate. If significant new information is received that reasonably affects the propriety of presenting this Stipulated Order to the Regional Water Board, or its delegate, for adoption, the Prosecution Team may unilaterally declare this Stipulated Order void and decide not to present it to the Regional Water Board or its delegate. The Settling Respondent agrees that it may not rescind or otherwise withdraw its approval of this proposed Stipulated Order.
29. **Addressing Objections Raised During Public Comment Period:** The Parties agree that the procedure contemplated for the Regional Water Board's or its delegate's adoption of the Order, and public review of this Stipulated Order is lawful and adequate. The Parties understand that the Regional Water Board, or its delegate, has the authority to require a public hearing on this Stipulated Order. In the event that procedural objections are raised or the Regional Water Board requires a public hearing prior to the Order becoming effective, the Parties agree to meet and confer concerning any such objections, and may agree to revise or adjust the procedure or this Stipulated Order, or both, as necessary or advisable under the circumstances.
30. **Interpretation:** This Stipulated Order shall be construed as if the Parties prepared it jointly. Any uncertainty or ambiguity shall not be interpreted against Regional Water Board or Settling Respondent. The Parties are represented by counsel in this matter.

31. **Modification:** The Parties shall not modify this Stipulated Order by oral representation made before or after its execution. All modifications must be in writing, signed by all Parties, and approved by the Regional Water Board or its delegate.
32. **If the Stipulated Order Does Not Take Effect:** In the event that the Stipulated Order does not take effect because the Regional Water Board or its delegate does not approve it, or the State Water Board or a court vacates it in whole or in part, the Parties acknowledge that they expect to proceed to a contested evidentiary hearing before the Regional Water Board to determine whether to assess administrative civil liabilities for the underlying alleged violations, unless the Parties agree otherwise. The Parties agree that all oral and written statements and agreements made during the course of settlement discussions will not be admissible as evidence in the hearing. The Parties agree to waive any and all objections based on settlement communications in this matter, including but not limited to the following:
- a. Objections related to prejudice or bias of any of the Regional Water Board members or their advisors and any other objections that are premised in whole or in part on the fact that the Regional Water Board members or their advisors were exposed to some of the material facts and the Parties' settlement positions as a consequence of reviewing the Stipulation or the Order, or both, and therefore may have formed impressions or conclusions prior to any contested evidentiary hearing on the violation alleged herein in this matter; or
  - b. Laches or delay or other equitable defenses based on the time period for administrative or judicial review to the extent this period has been extended by these settlement proceedings.
33. **Waiver of Hearing:** Settling Respondent has been informed of the rights Water Code section 13323, subdivision (b), provides and hereby waives its right to a hearing before the Regional Water Board prior to the Order's adoption.
34. **Waiver of Right to Petition or Appeal:** Settling Respondent hereby waives its right to petition the Regional Water Board's adoption of the Order for review by the State Water Board, and further waives its rights, if any, to appeal the same to a California Superior Court or any California appellate level court or both. This explicit waiver of rights includes potential future decisions by the Regional Water Board or its delegate directly related to this Stipulated Order, including, but not limited to, time extensions, SEP completion, and other terms contained in this Stipulated Order.
35. **Covenant Not to Sue:** Settling Respondent covenants not to sue or pursue any administrative or civil claims against any State agency or the State of California, their officers, Board Members, employees, representatives, agents, or attorneys arising out of or relating to any matter expressly addressed by the Complaint, this Stipulated Order or the SEP.


36. **No Admission of Liability:** In settling this matter, Settling Respondent does not admit to any of the allegations stated herein, or that it has been or is in violation of the Water Code, or any other federal, State, or local law or ordinance, with the understanding that in the event of any future enforcement actions by the Regional Water Board, the State Water Board or any other Regional Water Quality Control Board, this Stipulated Order may be used as evidence of a prior enforcement action consistent with Water Code section 13385, subdivision (e).
37. **Necessity for Written Approvals:** All approvals and decisions of the Regional Water Board under the terms of this Stipulated Order shall be communicated to the Settling Respondent in writing. No oral advice, guidance, suggestions, or comments from Regional Water Board employees or officials regarding submissions or notices shall be construed to relieve the Settling Respondent of its obligation to obtain any final written approval this Stipulated Order requires.
38. **Authority to Bind:** Each person executing this Stipulated Order in a representative capacity represents and warrants that he or she is authorized to execute this Stipulated Order on behalf of and to bind the entity on whose behalf he or she executes the Stipulated Order.
39. **No Third Party Beneficiaries:** This Stipulated Order is not intended to confer any rights or obligations on any third party or parties, and no third party or parties shall have any right of action under this Stipulated Order for any cause whatsoever.
40. **Severability:** This Stipulated Order is severable; should any provision be found invalid, the remainder shall remain in full force and effect.
41. **Counterpart Signatures, Facsimile, and Electronic Signature:** This Stipulated Order may be executed and delivered in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, but such counterparts shall together constitute one document. Further, this Stipulated Order may be executed by facsimile or electronic signature, and any such facsimile or electronic signature by any Party hereto shall be deemed to be an original signature and shall be binding on such Party to the same extent as if such facsimile or electronic signature were an original signature.
42. **Effective Date:** This Stipulated Order shall be effective and binding on the Parties upon the date the Regional Water Board, or its delegate, enters the Order incorporating the terms of this Stipulated Order.




**IT IS SO STIPULATED.**

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN FRANCISCO BAY REGION, PROSECUTION TEAM**

Date: March 3, 2017

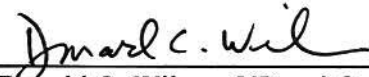
By:   
Thomas Mumley  
Assistant Executive Officer

Approved as to form:

By:   
John Prager, Attorney  
State Water Resources Control Board  
Office of Enforcement

**VALERO REFINING COMPANY - CALIFORNIA**

Date: 3/2/17

By:   
Donald C. Wilson, VP and General Manager  
Valero Benicia Refinery

Approved as to form:

By:   
Megan Bluntzer, Sr. Counsel  
Valero Refining Company-California

**ORDER OF THE REGIONAL WATER BOARD**

43. This Order incorporates the foregoing Sections I through III by this reference as if set forth fully herein.
44. In accepting this Stipulation, the Regional Water Board has considered, where applicable, each of the factors prescribed in Water Code section 13385, subdivision (e), and has applied the penalty calculation methodology set forth in the State Water Resource Control Board's Enforcement Policy, which is incorporated herein by this reference. The Regional Water Board's consideration of these factors and application of the penalty calculation methodology is based upon information obtained by the Prosecution Team in investigating the allegations set forth in the Stipulated Order, or otherwise provided to the Regional Water Board.
45. This is an action to enforce the laws and regulations administered by the Regional Water Board. The Regional Water Board finds that issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, § 21000 et seq.) in accordance with section 15321, subdivision (a)(2), Title 14, of the California Code of Regulations.
46. The Executive Officer of the Regional Water Board is authorized to refer this matter directly to the Attorney General for enforcement if the Settling Respondent fails to perform any of its obligations under the Order.

**IT IS HEREBY ORDERED** pursuant to Water Code section 13323 and Government Code section 11415.60, on behalf of the California Regional Water Quality Control Board, San Francisco Bay Region.

\_\_\_\_\_  
Bruce H. Wolfe  
Executive Officer  
California Regional Water Quality Control Board  
San Francisco Bay Region

\_\_\_\_\_  
Date

Settlement Agreement and Stipulated Administrative Civil Liability Attachment A  
Valero Refining Company-California

**ATTACHMENT A**

**Administrative Civil Liability  
Complaint No. R2-2016-1017**

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN FRANCISCO BAY REGION**

**COMPLAINT NO. R2-2016-1017  
ADMINISTRATIVE CIVIL LIABILITY  
IN THE MATTER OF**

**VALERO REFINING COMPANY-CALIFORNIA  
IMPROPER OPERATION OF TREATMENT SYSTEM  
RESULTING IN EFFLUENT LIMIT VIOLATIONS  
BENICIA REFINERY, BENICIA, CONTRA COSTA COUNTY**

This Administrative Civil Liability Complaint (Complaint) alleges that Valero Refining Company-California (Discharger) discharged to state and federal waters from the Valero Benicia Refinery located at 3400 East Second Street, Benicia, CA 94510 (Refinery) in violation of NPDES Permit No. CA0005550, Order R2-2015-0037 (Order) effluent limitations. The California Regional Water Quality Control Board, San Francisco Bay Region (Water Board) is authorized to assess administrative civil liability under California Water Code sections 13323 and 13385 for the alleged violations. The proposed liability for the alleged violations is **\$197,500**.

The Assistant Executive Officer of the Water Board hereby gives notice that:

1. This Complaint presents the factual basis for the alleged violations, legal and statutory authorities (including citations to applicable Water Code sections), and case-specific factors used to propose a \$197,500 liability for the alleged violations.
2. Unless waived, the Water Board will hold a hearing on this matter on **January 11, 2017**, at Elihu M. Harris Building, First Floor Auditorium, 1515 Clay Street, Oakland, 94612. At the hearing, the 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 judicial civil liability. The Discharger or its representative will have an opportunity to be heard and to contest the allegations in this Complaint and the imposition of civil liability by the Water Board. The Discharger will be mailed an agenda approximately ten days before the hearing date. A meeting agenda will also be available at: [http://www.waterboards.ca.gov/sanfranciscobay/board\\_info/agenda.shtml](http://www.waterboards.ca.gov/sanfranciscobay/board_info/agenda.shtml). The Discharger must submit all comments and written evidence concerning this Complaint to the Water Board not later than 5 p.m. on **November 14, 2016**, so that such comments may be considered. Any written evidence submitted to the Water Board after this date and time may not be accepted or responded to in writing.
3. The Discharger may waive its right to a hearing to contest the allegations contained in this Complaint by signing and submitting the enclosed waiver and paying the civil liability in full or by taking other actions as described in the waiver form. If this matter proceeds to hearing, the Water Board's Prosecution Team reserves the right to seek an increase in the civil liability amount to recover the costs of enforcement incurred subsequent to the issuance of this Complaint through the hearing.

### FACTUAL BASIS FOR THE ALLEGED VIOLATIONS

4. The Discharger owns and operates the Valero Benicia Refinery located at 3400 East Second Street, Benicia CA 94510 (Refinery).
5. The Refinery discharges wastewater and stormwater to Suisun Bay and Carquinez Strait, waters of the State and United States within the Suisun Basin watershed.
6. The Discharger is regulated pursuant to National Pollutant Discharge Elimination System NPDES Permit No, CA0005550, Order R2-2015-0037.
7. Pursuant to California Water Code section 13260, the Discharger filed a Report of Waste Discharge and submitted an application for reissuance of its Waste Discharge Requirements (WDRs) and NPDES permit on June 26, 2014. The WDRs contain, among other items, prohibitions, effluent limitations, and monitoring and reporting requirements with which the Discharger must comply.
8. The Refinery can process 165,000 barrels per day of crude oil, producing hydrocarbon products, byproducts, and intermediates.
9. Refinery wastewaters include asphalt plant wastewater, sour water (i.e., process wastewater containing significant hydrogen sulfide), crude water from onsite and offsite storage facilities, cooling tower and steam boiler blowdown, raw water treatment backwash, process area stormwater runoff, and miscellaneous wastewaters.
10. The combined wastewater is treated first by an activated sludge treatment system consisting of aeration cells with corresponding clarifiers, then an induced air flotation system which float residual solids, and finally by a reactor clarifier which co-precipitates selenium as selenite using ferric chloride, pH adjustment, and polymer addition to enhance flocculation. The resulting iron sludge can then be reused or disposed of.
11. Water that passes through all the above treatment steps is then discharged to Suisun Bay through a submerged diffuser approximately 1,100 feet offshore.
12. NPDES Permit No. CA0005550, Order R2-2015-0037, Provision IV.A Table 4 (page 7) contains, in part, the following effluent limitations with which the Discharger is required to maintain compliance at Discharge Point No. 001:

Parameter	Units	Effluent Limitations	
		Maximum Daily	Average Monthly
Biochemical Oxygen Demand, 5-day @ 20°C (BOD <sub>5</sub> )	lbs/day	3,400	1,900
Chemical Oxygen Demand (COD)	lbs/day	24,000	13,000
Oil and Grease	lbs/day	1,000	550
Phenolic Compounds (4AAP)	lbs/day	25	12
Sulfide	lbs/day	21	10

Parameter	Units	Effluent Limitations	
		Maximum Daily	Average Monthly
Total Suspended Solids (TSS)	lbs/day	2,400	1,500
Total Ammonia, as N	lbs/day	2,000	1,000
	mg/L	20	5.7
Total Chromium	lbs/day	46	16
Chromium (VI)	lbs/day	2.9	1.3
	µg/L	72	36
Bis(2-Ethylhexyl)Phthalate	µg/L	110	53
Chronic Toxicity	TUc	10	---
Copper, Total Recoverable	µg/L	120	58
Cyanide, Total	µg/L	42	19
Dioxin-TEQ	µg/L	$2.8 \times 10^{-8}$	$1.4 \times 10^{-8}$
Selenium, Total Recoverable	µg/L	50	42
pH	SU	6.0 – 9.0	

13. On January 26, 2016, the Discharger reported that operator error on January 18, 2016, resulted in the failure of the iron co-precipitation unit to maintain a stable sludge bed inside the reactor clarifier.
14. Specifically, at about 10:00 a.m. on January 18, 2016, the Refinery operator failed to open the polymer feed, which resulted in an unstable sludge bed and incomplete flocculation. About seven hours later, at around 5:00 p.m. that same day, the next shift operator reestablished the polymer feed. At about 7:00 p.m. and two hours after the polymer feed was reestablished, the operator visually confirmed the unit's return to normal operation when a stable sludge bed was observed. A total of 1.13 million gallons of partially treated wastewater was discharged during that time.
15. On January 18, 2016, the daily loading limit for TSS and the daily concentration limit for Selenium were exceeded. Due to the Selenium excess on January 18, 2016, the monthly average concentration limit was also exceeded:

Date	Parameter	Effluent Limitation	Reported Value <sup>1</sup>
1/18/2016	Total Suspended Solids	2,400 lbs/day	5,266 lbs/day
1/18/2016	Selenium	50 µg/L (Max Daily)	110 µg/L
1/18/2016	Selenium	42 µg/L (Avg Monthly)	42.8 µg/L

<sup>1</sup> Monthly Self-Monitoring Report for January 2016 submitted to Water Board on 02/29/2016.

### ALLEGED VIOLATIONS

16. On January 18, 2016, the Discharger discharged partially treated wastewater into waters of the State and United States, violating NPDES Permit No. CA0005550, Order R2-2015-0037.

17. The January 18, 2016, discharge violated the effluent limitations prescribed in Table 4 of Provision IV.A of the Order for total suspended solids and selenium.
18. The Discharger's self-monitoring report for December 2014 showed that the wastewater discharged from the Refinery exceeded the effluent limitations for cyanide set forth in the Order on six occasions, of which five violations are subject to mandatory minimum penalties ("MMPs") under Water Code section 13385, as identified in **Exhibit B**.

#### LEGAL AUTHORITY

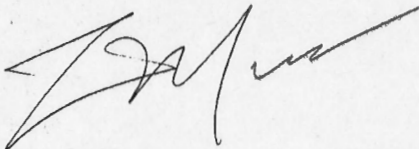
19. The Water Board may impose administrative civil liabilities for violations of a discharger's WDR permit and/or applicable Board orders pursuant to the procedures described in Water Code section 13323.
20. The Discharger's conduct on January 18, 2016, constitutes a violation of NPDES Permit No. CA0005550, Order R2-2015-0037 and this complaint seeks administrative civil liabilities under Water Code section 13385(a)(2) for that violation.
21. Water Code section 13385, subdivision (h)(1) requires the Regional Water Board to assess a MMP of three thousand dollars (\$3,000) for each serious violation.
22. Water Code section 13385, subdivision (h)(2) defines a "serious violation" as "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."
23. This enforcement action is exempt from the provisions of the California Environmental Quality Act, Public Resources Code section 21000 et seq., in accordance with California Code of Regulations, title 14, section 15321.

#### STATUTORY LIABILITY

24. Water Code section 13385, subdivision (a)(2) states that a person who violates a waste discharge requirement shall be liable civilly in accordance with this section.
25. The Discharger is subject to an administrative civil liability for the violations of the Order that occurred on January 18, 2016, pursuant to Water Code section 13385(a)(2)..
26. The Discharger is subject under Water Code section 13385 subdivision (h)(1) to mandatory minimum penalties for serious violations of the effluent limitation for cyanide set forth in NPDES Permit No. CA0005550, Order R2-2015-0037 on five occasions in December 2014, as identified in Exhibit B.

### PROPOSED CIVIL LIABILITY

27. **Maximum Liability:** The maximum administrative civil liability is \$28.7 million. This is based on the maximum allowed by Water Code section 13385: (1) \$10,000 for each day in which each violation occurred; and (2) \$10 for each gallon exceeding 1,000 gallons that is discharged and not recovered.
28. **Minimum Liability:** Pursuant to Water Code section 13385(e), at a minimum, liability shall be assessed at a level that recovers the economic benefit or savings, if any, derived from the unauthorized discharge violation. The State Water Resources Control Board Water Quality Enforcement Policy (Enforcement Policy) requires that the minimum liability amount imposed not to be below the economic benefit plus ten percent. The Discharger realized cost savings of approximately \$343. Applying the methodology as set forth in **Exhibit A**, the minimum liability for the discharge on January 18, 2016 in this matter is \$377. As noted in **Exhibit B**, The minimum penalty for the discharge in December of 2014 in violation of effluent limitations for cyanide is set pursuant to Water Code 13385(h)(1) at \$15,000.
29. **Proposed Liability:** The Assistant Executive Officer proposes that administrative civil liability be imposed in the amount of \$182,500. The Exhibit A attachment (incorporated herein by this reference) presents a discussion of the factors considered and the values assessed to calculate the proposed liability in accordance with the Enforcement Policy and Water Code section 13385. The Assistant Executive Officer further proposes that the Discharger be assessed an MMP of \$15,000 for exceeding the effluent limitation for cyanide specifically identified in Exhibit B. The total proposed liability is **\$197,500**. The proposed liability is more than the minimum liability and less than the maximum liability allowed for the alleged violation.



Thomas E. Mumley  
Assistant Executive Officer

October 13, 2016  
Date

Attachments: Exhibit A: Factors Considered in Determining Administrative Civil Liability  
Exhibit B: Mandatory Minimum Penalties Assessed for Violation of Effluent Limitations



## EXHIBIT A

### **Alleged Violation and Factors in Determining Administrative Civil Liability**

#### **VALERO REFINING COMPANY IMPROPER OPERATION OF TREATMENT SYSTEM RESULTING IN EFFLUENT LIMIT VIOLATIONS BENICIA REFINERY, BENICIA, CONTRA COSTA COUNTY**

The State Water Resources Control Board Water Quality Enforcement Policy (Enforcement Policy) establishes a methodology for assessing administrative civil liability. Use of the methodology addresses the factors required by Water Code sections 13327 and 13385, subdivision (e). Each factor in the Enforcement Policy and its corresponding category, adjustment, and amount for the alleged violation is presented below. The Enforcement Policy should be used as a companion document in conjunction with this administrative civil liability assessment since the penalty methodology and definition of terms are not replicated herein. The Enforcement Policy is at:

[http://www.waterboards.ca.gov/water\\_issues/programs/enforcement/docs/enf\\_policy\\_final111709.pdf](http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf)

#### **ALLEGED VIOLATION**

On January 18, 2016, Valero Refining Company (Discharger) discharged partially treated wastewater to Suisun Bay for the entire day in violation of NPDES Permit No. CA0005550, Order R2-2015-0037 (permit or Order). The discharge violated the three separate effluent limitations prescribed in Table 4 of Provision IV.A: 1) the maximum daily concentration of total suspended solids (TSS) and 2) the maximum daily concentration for selenium (Se), and 3) the average monthly concentration for selenium. These effluent limit violations were the result of the improper operation of the EQIP solids treatment unit.

The Discharger reported via telephone and in a follow-up notification letter on February 5, 2016, that operator error on January 18, 2016, resulted in the failure of the EQIP unit to maintain a stable sludge bed. The total volume discharged on January 18 was approximately 2.87 million gallons, of which about 1.13 million gallons was discharged during the 9 hours of improper operation of the EQIP unit. Specifically, at about 10:00 a.m. on January 18, the operator inadvertently left closed the polymer feed during a routine feed rate check. About seven hours later, at around 5:00 p.m. that same day, the next shift operator reestablished the polymer feed. Finally, at about 7:00 p.m. and two hours after the polymer feed was reestablished, the operator visually confirmed the EQIP unit's return to normal operation when a stable sludge bed was observed. Monitoring results obtained on January 18 confirmed that the effluent limits for TSS and Se were exceeded.

On January 18, 2016, the discharge was also monitored for acute toxicity, mercury, oil and grease, and pH. These results show compliance with permit effluent limits. No monitoring occurred for other permit-limited parameters because those parameters were not scheduled for monitoring during the incident week. The Discharger's follow-up monitoring for TSS on January 26 and 27 and for Se on January 28, 2016, confirmed its return to compliance. Follow up monitoring is a requirement of the permit.

While the Discharger is subject to an Administrative Civil Liability for all three of the above violations of the Order pursuant to Water Code section 13385(a)(2), the Enforcement Policy allows for a single base liability amount to be assessed for multiple violations at the discretion

of the Water Board when those violations are not independent of one another. Here all three effluent limitations violations derive from the same incident: the failure to reestablish the polymer feed after a routine feed rate check. Because the violations are not independent of each other one penalty is calculated for the discharge of 1.13 million gallons of partially treated wastewater that exceeded the effluent limitations.

## ADMINISTRATIVE CIVIL LIABILITY CALCULATION STEPS

### STEP 1 – POTENTIAL FOR HARM FOR DISCHARGE VIOLATION

The “potential harm” factor considers the harm to beneficial uses that resulted or that may result from exposure to the pollutant(s) in the discharge, while evaluating the nature, circumstances, extent, and gravity of the violation(s). A three-factor scoring system is used for each violation or group of violations: (1) the harm or potential harm to beneficial uses; (2) the degree of toxicity of the discharge, and (3) whether the discharge is susceptible to cleanup or abatement.

#### **Factor 1: Harm or Potential Harm to Beneficial Uses**

The Enforcement Policy specifies that a score between 0 and 5 be assigned based on a determination of whether direct or indirect harm, or potential for harm, from a violation is negligible (0) to major (5).

The potential harm to beneficial uses from the discharge is **minor (i.e., a score of 1)**. Minor is assigned when there are “no observed impacts but potential impacts to beneficial uses without appreciable harm.” The beneficial uses of Suisun Bay are commercial and sport fishing; estuarine habitat; industrial service supply; fish migration; navigation; preservation of rare and endangered species; water contact recreation; noncontact water recreation; fish spawning; and wildlife habitat (San Francisco Bay Basin Plan Table 2-7, Basin 7–Suisun Basin).

Elevated levels of TSS and Se discharged into Suisun Bay would have potential to harm aquatic habitat uses. The Order sets load limits for Se because it is widely recognized to be a concern through aquatic food chain bio-concentration, which occurs over time. The TSS limits are technology based to ensure effective treatment of refinery wastewater in accordance with national Petroleum Refining Effluent Guidelines and Standards (40 CFR Part 419). Also, TSS is a surrogate for many potential particle-bound contaminants of concern in petroleum refinery wastewater. Therefore, the primary concern for potential harm is the increased TSS and Se loading to the Bay. However, these potential impacts would not result in any appreciable harm to the aquatic habitat beneficial uses for the following reasons:

- The TSS load of 5,265 pounds per day (lb/d) exceeded the daily maximum limit of 2,400 lb/d, which is just under two times the limit. This increase was over a short duration.
- While the reported Se concentration of 110 micrograms per liter ( $\mu\text{g/L}$ ) was more than twice the daily limit of 50  $\mu\text{g/L}$ , it had a minimal effect on the average monthly concentration. The reported concentration of 42.75  $\mu\text{g/L}$  is just slightly above the monthly effluent limit of 42  $\mu\text{g/L}$ . Thus, any additional bio-concentration would be minor because the increased load of Se is only about two percent above the monthly limit. Thus, the potential impacts to beneficial uses due to Se are minor.

### **Factor 2: The Physical, Chemical, Biological or Thermal Characteristics for the Discharge**

The Enforcement Policy specifies that a score between 0 and 4 be assigned based on a determination of the risk or threat of the discharged material to potential receptors. It defines "potential receptors" as those identified considering human, environmental and ecosystem health exposure pathways.

The risk or threat of the discharge is **minor (i.e., a score of 1)**. Minor is assigned because the discharge fits the Enforcement Policy definition that "discharged material poses only minor risk or threat to potential receptors (i.e., the chemical and or/physical characteristics of the discharged material are relatively benign or are not likely to harm potential receptors."

The primary concern with Se is the chronic exposure to aquatic life over time. This short-duration discharge does not likely have the potential to harm receptors, such as aquatic life. The risk or threat of risk due to the chemical characteristics of the Se discharge is minor.

The TSS in the EQIP unit is predominantly made up of precipitated iron. The EQIP unit's main function is to remove co-precipitated ferric chloride, which is used to reduce Se. Thus, the bulk of the solids would be generally benign iron (Attachment F of Order No. R2-2015-0037, Fact Sheet, II.A.2.b.iii page F-4). However, high solids could also be indicative of other pollutants such as chromium, copper, and dioxin-TEQ (which were not monitored), so a factor above "negligible" is warranted.

### **Factor 3: Susceptibility to Cleanup or Abatement**

The Enforcement Policy specifies that if 50 percent or more of the discharge is susceptible to cleanup or abatement, then a score of 0 is assigned. A score of 1 is assigned if less than 50 percent of the discharge is susceptible to cleanup or abatement. This factor is evaluated regardless of whether the discharge was actually cleaned up or abated.

The discharge was **not susceptible to cleanup or abatement and is assigned a score of 1**. The discharge flowed into and commingled with ambient receiving waters. There was no opportunity for abating the effects.

### **STEP 2 – ASSESSMENTS FOR DISCHARGE VIOLATIONS**

The Enforcement Policy specifies that when there is a discharge, an initial liability amount based on a per-gallon and/or a per-day basis is determined using the sum of the Potential for Harm scores from Step 1 and a determination of Deviation from Requirement. The Deviation from Requirement reflects the extent to which a violation deviates from the specific requirement that was violated.

For the violations, the **sum of the three factors from Step 1 is 3**. In addition, the **Deviation from Requirement** for the violations is **moderate**. The Policy defines moderate deviation for violations where "The intended effectiveness of the requirement has been partially compromised." The intent of the requirement to meet permit technology based effluent limits is to ensure treatment of the discharge to a certain standard. The TSS and Se limits were both technology based limits. Because the improper operation was limited to just one of the many treatment units at the refinery, and resulted in effluent limit violations for two out of four monitored technology based effluent limits (pH, and oil and grease were the other two limits), the intent of the requirements was only partially compromised.

The resulting **per-gallon and per-day multiplier factor is 0.013** from the matrix in Tables 1 and 2 of the Enforcement Policy, based the Potential for Harm score and extent of Deviation from Requirement described above. The Enforcement Policy notes that while generally it is intended that effluent limit violations be addressed on a per day basis only, in appropriate situations such as a large scale spill, both per gallon and per day assessment may be considered. Due to the large scale of the spill, and to avoid an inappropriately small penalty, the Prosecution Staff used both per-gallon and per-day factors.

#### Initial Liability Amount

There was no adjustment of the maximum \$10/gallon because it would result in an inappropriately small penalty. The volume discharged over the nine-hour period was 1.13 million gallons. The volume used to calculate the initial liability is 1,000 gallons less than the total discharged volume (1.13 million gallons) during the event, which is 1.129 million gallons. The initial liability amount calculated on a per-gallon and per-day basis is as follows:

Per Gallon Liability: (1.129 million gallons) x (0.013) x (\$10/gallons) = \$146,770

Per Day Liability: \$10,000/day x (0.013) x (31 days) = \$4,030

**Initial Liability = \$150,800**

#### **STEP 3 – PER DAY ASSESSMENT FOR NON-DISCHARGE VIOLATIONS**

Not applicable for this discharge violation.

#### **STEP 4 – ADJUSTMENTS TO INITIAL LIABILITY**

The Enforcement Policy specifies that three additional factors should be considered for modification of the amount of initial liability: the violator's culpability, efforts to clean up or cooperate with regulatory authority, and the violator's compliance history.

#### Culpability

The Enforcement Policy specifies that higher liabilities should result from intentional or negligent violations as opposed to accidental violations. It specifies use of a multiplier between 0.5 and 1.5, with a higher multiplier for intentional or negligent behavior.

For this violation, the culpability multiplier is increased to **1.1** because the effluent limit violations were caused by an operator's failure to reestablish polymer feed after closing the feed line during a routine check.

#### Cleanup and Cooperation

The Enforcement Policy provides for an adjustment to reflect the extent to which a violator voluntarily cooperated in returning to compliance and correcting environmental damage. The adjustment is a multiplier between 0.75 and 1.5, with a higher multiplier where there is a lack of cooperation.

The cleanup and cooperation multiplier in this case is **neutral at 1**. The Discharger's next shift operator promptly took appropriate actions to restore normal treatment function. The Discharger

also complied with permit notification, reporting, and monitoring requirements when it became aware that operator error resulted in violations of permit effluent limits.

According to the Discharger's February 5, 2016, five-day written report, and May 27, 2016, report of additional information, the Discharger also took reasonable corrective action to install an on-line turbidity meter with an alarm system, which will reduce future operator response time and subsequent exceedances.

### **History of Violations**

The Enforcement Policy provides that where there is a history of repeat violations, a minimum multiplier of 1.1 should be used.

The history multiplier is increased to **1.1**. This increase is appropriate because the Regional Water Board has previously assessed mandatory minimum penalties of \$27,000 (ACL R2-2012-0065) and \$18,000 (ACL R2-2007-0013) for effluent limit violations against the Discharger.

### **STEP 5 – DETERMINATION OF TOTAL BASE LIABILITY**

The Total Base Liability is determined by applying the adjustment factors from Step 4 to the Initial Liability Amount determined in Step 2.

Total Base Liability = \$150,800 (Initial Liability) x 1.1 (Culpability Multiplier) x 1.1 (Cleanup and Cooperation Multiplier) x 1.1 (History of Violations Multiplier)

**Total Base Liability = \$182,468 (rounded to \$182,500)**

### **STEP 6 – ABILITY TO PAY AND TO CONTINUE IN BUSINESS**

The Enforcement Policy provides that if there is sufficient financial information to assess the violator's ability to pay the Total Base Liability or to assess the effect of the Total Base Liability on the violator's ability to continue in business, then the Total Base Liability amount may be adjusted downward if warranted.

In this case, Regional Water Board Prosecution Staff has sufficient information to suggest the Discharger has the ability to pay the proposed liability. According to its public earnings report, the Discharger ended the first quarter of 2016 with \$3.8 billion in cash and temporary cash investments, of which \$102 million was held by Valero Energy Partners LP.<sup>1</sup>

### **STEP 7 – OTHER FACTORS AS JUSTICE MAY REQUIRE**

The Enforcement Policy provides that if the Regional Water Board believes that the amount determined using the above factors is inappropriate, the amount may be adjusted under the provision for "other factors as justice may require." The Enforcement Policy includes the costs of investigation and enforcement as "other factors as justice may require," that should be added to the liability amount. While staff costs could be added to the penalty, the Prosecution Team, in its discretion, is electing not to pursue staff costs in this matter.

There are no factors under this category that warrant an adjustment.

<sup>1</sup><https://globenewswire.com/news-release/2016/05/03/835929/en/Valero-Energy-Reports>

### STEP 8 – ECONOMIC BENEFIT

Pursuant to Water Code section 13385(e), civil liability, at a minimum, must be assessed at a level that recovers the economic benefit, if any, derived from the acts that constitute a violation.

As documented in this complaint, the facility operator failed to open the polymer feed, which resulted in an unstable sludge bed and incomplete flocculation. Due to the fact that the Discharger had not installed a turbidity meter and alarm that would have alerted the operator of the problem, seven hours passed before the next shift operator noticed the problem and reestablished the polymer feed. A turbidity meter and alarm was installed on June 30, 2016. As a result, the Discharger enjoyed an economic benefit related to delayed installation of the turbidity meter and alarm, as well as the avoided cost of the polymer for those seven hours. The BEN financial model provided by the United States Environmental Protection Agency was used to compute the total economic benefit of noncompliance. Cost estimate and other assumptions are detailed in the table found in **Attachment 1**. Based on specific assumptions within the model, the total economic benefit of noncompliance was determined to be approximately **\$343**.

The adjusted Total Base Liability from Step 7 is unchanged because it is more than ten percent higher than the estimated economic benefit.

### STEP 9 – MAXIMUM AND MINIMUM LIABILITY

#### a) *Minimum Liability*

The Enforcement Policy states (p. 21) that the total liability shall be at least 10% higher than the economic benefit, “so that liabilities are not construed as the cost of doing business and the assessed liability provides meaningful deterrent to future violations.” Therefore the minimum total liability is approximately **\$377**.

#### b) *Maximum Liability*

The maximum administrative civil liability is **\$28.7 million**. This is based on the highest discharge volume resulting from the volume discharged during improper operation, which is 2.87 million gallons for the full day of discharge in violation of the TSS and Se limits. The maximum allowed by Water Code section 13385 is (1) \$10,000 for each day in which the violation occurs, plus (2) \$10 for each gallon exceeding 1,000 gallons that is discharged and not cleanup.

### STEP 10 – FINAL LIABILITY

The final liability proposed is **\$182,500** (rounded), based on consideration of the penalty factors discussed above. It is within the minimum and maximum liabilities.

**Economic Benefit Analysis**  
**Valero Refining Company**

Compliance Action	One-Time Non-Depreciable Expenditure				Non-Compliance Date	Compliance Date	Penalty Payment Date	Discount Rate	Benefit of Non-Compliance
	Amount	Basis	Date	Delayed?					
1 - Installation of Turbidity Meter & Alarm	\$ 15,500	ECI	6/30/2016	Y	1/18/2016	6/30/2016	12/13/2016	7.30%	\$ 248
2 - Increased Polymer Dosing	\$ 151	GDP	8/25/2016	N	1/18/2016	1/1/2016	12/13/2016	7.30%	\$ 95

Income Tax Schedule: Corporation Analyst: Bryan Elder Total Benefit: \$ 343  
 USEPA BEN Model Version: Version 5.6.0 (April 2016) Date/Time of Analysis: 9/13/2016 12:28

**Assumptions:**

- 1 Cost estimates for installation of turbidity meter are based on discussions with Valero during an inspection conducted in August 2016. Purchase and installation was completed in June 2016.
- 2 Polymer dosing expenses based on upper range of cost per gallon determined from comparison with East Bay MUD wastewater treatment.
- 3 Turbidity installation is indexed using Employment Cost Index (ECI) as a significant portion of the cost is related to labor. This cost is considered a delayed expense.
- 4 Polymer dosing cost is indexed using Gross Domestic Product (GDP) and is considered an avoided expense.
- 5 Non-compliance date is assumed to be the date of unauthorized discharge (January 18, 2016).
- 6 Compliance date for turbidity meter installation is assumed to be June 30, 2016.
- 7 Compliance date for polymer dosing is irrelevant as the cost is considered an avoided expense.
- 8 Penalty Payment Date is assumed to be the tentative hearing date, or approximately 90 days from the date this analysis was prepared.
- 9 The Discharger is assumed to be a for-profit corporation.

**EXHIBIT B**

**MANDATORY MINIMUM PENALTIES  
FOR  
VALERO REFINING COMPANY-CALIFORNIA  
VALERO BENICIA REFINERY WASTEWATER TREATMENT PLANT  
3400 EAST SECOND STREET, BENICIA, SOLANO COUNTY  
NPDES PERMIT NO. CA0005550, ORDER NO. R2-2015-0037**

The following table lists alleged violation(s) for which the Discharger is subject to civil liabilities pursuant to Water Code sections 13385(h) and/or 13385(i).

No	CIWQS Violation ID No.	Date of Occurrence	Effluent Limitation (Unit)	Effluent Limit	Reported Value	Percent a Group I or Group II Pollutant is over Effluent Limitation	Type of Exceedance	CWC Section 13385(h) and/or (i) Required MMP
1	985568	12/02/2014	Cyanide, Total (as CN) Daily Maximum (ug/L)	42	80	90	C1, S	\$3,000
2	985567	12/04/2014	Cyanide, Total (as CN) Daily Maximum (ug/L)	42	48	14	C2, S	
3	985563	12/06/2014	Cyanide, Total (as CN) Daily Maximum (ug/L)	42	51	21	C3, S	\$3,000
4	985564	12/17/2014	Cyanide, Total (as CN) Daily Maximum (ug/L)	42	57	36	> C3, S	\$3,000
5	985565	12/18/2014	Cyanide, Total (as CN) Daily Maximum (ug/L)	42	66	57	> C3, S	\$3,000
6	985566	12/31/2014	Cyanide, Total (as CN) Monthly Average (Mean) (ug/L)	21	33.8	61	> C3, S	\$3,000
<b>Total</b>								<b>\$15,000</b>

**Legend for Table:**

MMP = mandatory minimum penalty

CIWQS = California Integrated Water Quality System database used by the Water Boards to manage violation and enforcement activities.

Violation ID = Identification number assigned to a permit exceedance in CIWQS.

C = Count – The number that follows represents the number of exceedances in the past 180 days, including this violation. A count greater than three (> C3) means that a penalty under Water Code section 13385(i) applies.

S = Serious, which means that a penalty under Water Code section 13385(h) applies when an effluent limitation is exceeded 40 percent or more for a Group I pollutant or 20 percent or more for a Group II pollutant.

CIWQS Place ID: 223950  
Regulatory Measure: 404940  
WDID: 2 482004001



## **ATTACHMENT B**

### **Valero Refining Company-California Study Description for Supplemental Environmental Project Fund for the San Francisco Bay Regional Monitoring Program**

#### **Basic Information**

Study Name: Suisun Bay Selenium Monitoring Study

Study Budget, Total: \$94,000 (\$89,500 + \$4,500 in oversight costs)

SFEI Contacts:

Technical – Jay Davis, jay@sfei.org, cell (510) 304-2308

Financial – Lawrence Leung, lawrence@sfei.org, (510) 746-7356

#### **Study Description**

The goal of the study is to develop and pilot test a selenium monitoring program in Suisun Bay to evaluate potential trends and early indicators of change in selenium levels due to changes in hydrology in the Delta or changes in selenium loads to Bay-Delta tributaries in the Central Valley. The project tasks include the following: 1) assemble existing data on selenium concentrations in Suisun Bay; 2) use the data to develop a quantitative statistical study design framework to monitor for selenium trends in Suisun Bay; and 3) conduct monitoring to pilot test the study design framework and report the monitoring results.

#### **Compliance with SEP Criteria**

This study complies with the following SEP criteria:

- It supports development and implementation of a monitoring program or study of surface water quality or quantity or the beneficial uses of the water.
- It has a nexus to the violations in that it is located within the same receiving water body affected by the violations and the nature of a discharged constituent is the same as that to be studied (selenium).

This study goes above and beyond the Settling Respondent's applicable obligations because of the following:

- This study and associated product go above and beyond what is required in permits or orders issued by the Regional Water Board or what can be accomplished with dischargers' required monetary contributions to the Regional Monitoring Program.

**Study Milestone and Performance Measure**

- A report on the monitoring design framework will be available by August 2017.
- A final data report on the field studies will be available by December 2018.

**Study Budget and Reports to Water Board**

Pursuant to the October 2015 Supplement to the Memorandum of Understanding (MOU) between SFEI and the Regional Water Board, SFEI is responsible for identifying in each annual work plan and annual budget for the RMP those studies or elements, or portions of a study or element, that are to be funded by SEP funds. SFEI will keep a copy of accounting records of SEP fund contributions and expenditures separately from regular RMP funds. In its annual and quarterly financial reports to the Regional Water Board, SFEI will separately itemize SEP fund contributions and expenditures by each SEP funder.

SFEI will notify the Regional Water Board within one month after receiving funds from a discharger for the SEP and the notice will state SFEI's agreement to use the funds received as described herein.

**Publicity**

Pursuant to the 2015 MOU, SFEI will indicate on its Regional Monitoring Program website, and annual and other reports, that funding for the study is the result of settlement of "San Francisco Bay Water Board" enforcement actions consistent with SEP Policy section G.6.