



THE CITY OF SAN DIEGO

November 18, 2008

Mr. Jeremy Haas, Environmental Scientist
San Diego Region Compliance Assurance Unit
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA 92123

Reference: Administrative Civil Liability (ACL) Complaint No. R9 – 2008 – 0046
Mission Valley Terminal (MVT)

Dear Mr. Haas:

The City of San Diego (City) has chosen to not be a designated party for the hearing on the above referenced matter scheduled for December 10, 2008, even though our interests are impacted by the actions and activities of the Discharger, a subsidiary of Kinder Morgan Energy Partners (Kinder Morgan). However, we made this decision after thoughtful deliberation. Kinder Morgan's initial response to the MVT release resulted in years passing before the Regional Water Quality Control Board (RWQCB), and the City, got a clear picture of the enormity of its scope. Now that we have data, it is obvious that the release has impacted many acres of City land and, most importantly, the groundwater in the aquifer below the land.

Once the RWQCB started looking closely at the site, Kinder Morgan responded with expanded, yet under engineered, remedial measures. It did so reluctantly, and its compliance has been only grudgingly provided. The City's expectations and plans to put the aquifer into use on behalf of its residents have been stalled with no clear end in sight. Now we have learned that there are substantial questions about the efficacy of the "barrier" that has been engineered to prevent contamination from the Mission Valley Terminal migrating off site and further contaminating the City's aquifer, and that discharges to Murphy Canyon Creek, a tributary of the San Diego River, exceeded allowable limits.

Kinder Morgan has yet to pay one cent of penalties as a result of this pattern of non-compliance and, as a result, has found it to be more cost-effective to ignore the RWQCB's Orders than to observe them. A great number of potential water users are being denied access to an important local resource as a result. The City supports the effort of the RWQCB and its staff in assessing fines for non-compliance at a level that



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will ensure that Kinder Morgan is more careful about compliance in the future than it has been in the past.

Thank you and the other staff and Board members of the RWQCB for taking constructive and appropriate action in resolving the ACL in a manner which helps achieve these goals.

Sincerely,

A handwritten signature in black ink, appearing to read "Marsi A. Steirer". The signature is fluid and cursive, with a long horizontal stroke at the end.

Marsi A. Steirer

Water Department Deputy Director

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