



State Water Resources Control Board



Linda S. Adams
Agency Secretary

Office of Enforcement
1001 I Street • Sacramento, California 95814 • (916) 341-5277
Mailing Address: P.O. Box 100 • Sacramento, California • 95812-0100
Fax (916) 341-5284 • <http://www.waterboards.ca.gov>

Edmund G. Brown Jr
Governor

July 26, 2011

Attn: Stephen Defibaugh
Kinder Morgan SFPP, L.P.
(formerly Santa Fe Pacific Pipeline) –
Norwalk Pump Station
1100 Town and Country Road
Orange, California 92868

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
CLAIM NO.
7004 1160 0002 0465 8581

COMPLAINT NO. OE-2011-0005 FOR MANDATORY MINIMUM PENALTY AGAINST KINDER MORGAN SFPP, L.P. (FORMERLY SANTA FE PACIFIC PIPELINE), NORWALK PUMP STATION 15306 NORWALK BOULEVARD, NORWALK, CA, 90650 (ORDER NOS. 95-023, 00-088, AND R4-2005-0072, NPDES PERMIT NO. CA0063509, CI NO. 7497)

Dear Mr. Defibaugh:

Enclosed is Complaint No. OE-2011-0005 for Mandatory Minimum Penalty in the amount of \$111,000.00 against Kinder Morgan SFPP, L.P. (formerly Santa Fe Pacific Pipeline) (hereinafter Permittee) for violating waste discharge requirements contained in Regional Board Order Nos. 95-023, 00-088 (as amended by Order No. 00-142), and R4-2005-0072. Also enclosed is a copy of the State Water Resources Control Board (State Water Board) Notice of Public Hearing to Consider an Administrative Civil Liability Complaint.

Unless waived, a hearing before a Hearing Officer of the State Water Board will be held on this Complaint pursuant to California Water Code Sections 13323(c) and 183. Should the Permittee choose to waive its right to a hearing, an authorized agent must sign the waiver form attached to Complaint No. OE-2011-0005 and return it to the Office of Enforcement by 5:00 p.m. on **August 26, 2011**. If we do not receive the waiver and full payment of the mandatory minimum penalty by August 26, 2011, this matter will be heard before a State Water Board Hearing Officer. An agenda containing the date, time, and location of the hearing will be mailed to you at least 10 days prior to the hearing date.

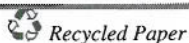
If you have any questions regarding this matter, please contact Miss Melissa Hall at (916) 341-5773.

Sincerely,

Reed Sato
Director, Office of Enforcement
State Water Resources Control Board

Enclosures

California Environmental Protection Agency



Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

Attn: Stephen Defibaugh
Kinder Morgan SFPP, L.P.
(Formerly Santa Fe Pacific Pipeline)

- 2 -

July 26, 2011

cc: [via CERTIFIED MAIL RETURN RECEIPT REQUESTED
CLAIM NO. 7004 1160 0002 0465 8611]
Mr. Vladimir Carino, Project Engineer
CH2M Hill
1000 Wilshire Boulevard, 21st Floor
Los Angeles, California 90017

[via email only]

Ms. Ann Carroll, Office of Enforcement, State Water Resources Control Board
Ms. Mayumi Okamoto, Office of Enforcement, State Water Resources Control Board
Miss Melissa Hall, Office of Enforcement, State Water Resources Control Board
Mr. Tim Regan, Office of Chief Counsel, State Water Resources Control Board
Mr. Phil Wyels, Office of Chief Counsel, State Water Resources Control
Mr. Daniel Jablonski, CH2M Hill
Ms. Kristie Kao, Los Angeles Regional Water Quality Control Board

California Environmental Protection Agency



Recycled Paper

Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

1 REED SATO, Director (SBN 87685)
2 ANN K. B. CARROLL, Staff Counsel (SBN 240452)
3 MAYUMI OKAMOTO, Staff Counsel (SBN 253243)
4 Office of Enforcement
5 State Water Resources Control Board
6 1001 I Street, 16th Floor
7 Sacramento, California 95814
8 Telephone: 916-341-5674
9 Fax: 916-341-5896
10 E-mail: mokamoto@waterboards.ca.gov

11 Attorneys for the Prosecution Team

12 **STATE OF CALIFORNIA**
13 **STATE WATER RESOURCES CONTROL BOARD**

14 **In the matter of:**

14 **Complaint No. OE-2011-0005**

15 **Mandatory Minimum Penalty**
16 **for**

17 **Kinder Morgan SFPP, L.P.**
18 **(formerly Santa Fe Pacific Pipeline)**

17 **Violation of California Water Code § 13376**

18 **and**

19 **15306 Norwalk Boulevard**
20 **Norwalk, CA 90650**

19 **ORDER NOS. 95-023, 00-088, 00-142, and**
20 **R4-2005-0072**
21 **(NPDES No. CA0063509)**

22 This Complaint to assess the mandatory minimum penalty pursuant to California Water Code (CWC)
23 Section 13385(h) and (i) is issued to Kinder Morgan SFPP, L.P., formerly Santa Fe Pacific Pipeline
24 (hereinafter Permittee), based on a finding of violations of waste discharge requirements prescribed in
25 Order Nos. 95-023, 00-088 (as amended by Order No. 00-142), and R4-2005-0072 (NPDES No.
26 CA0063509, CI No. 7497).

27 **The Director of the Office of Enforcement of the State Water Resources Control Board (State**
28 **Water Board) finds the following:**

- 29
- 30 1. The Permittee operates the groundwater dewatering system for the Norwalk Pump Station
31 facility (Facility) located at 15306 Norwalk Boulevard, Norwalk, CA 90650. The Permittee
32 previously operated a fuel pump station on property owned by the United States Air Force. The

1 pump station has been decommissioned, but three pipelines remain in service. Site investigations
2 revealed soil and groundwater pollution resulting from facility operations and pipeline releases
3 of gasoline. The Permittee has implemented a remedial action plan for on-site soil and
4 groundwater cleanup. The plan includes a soil vapor extraction (SVE) system and a groundwater
5 extraction and treatment system. The groundwater extraction process is used primarily to lower
6 the water table in order to expose more soil for vapor extraction and to reduce the groundwater
7 gradient to control off-site plume migration. The remediation equipment is contained within a
8 bermed concrete pad and all stormwater from the pad is pumped through the groundwater
9 treatment system prior to discharge.

10
11 2. The Permittee discharges stormwater commingled with treated groundwater and condensate from
12 the SVE system to Discharge Point No. 001 (Latitude 33° 53' 31" North, Longitude 118° 04' 15"
13 West) (formerly Discharge Outfall No. C-2), a storm drain which discharges to Coyote Creek, a
14 water of the United States. Coyote Creek flows into the San Gabriel River, which is tributary to
15 the Alamos Bay/Estuary. The discharged stormwater commingled with treated groundwater
16 may contain pollutants, which can degrade water quality and impact beneficial uses of water, and
17 which are defined as wastes under the Porter-Cologne Water Quality Control Act (CWC Section
18 13000 *et seq.*).

19
20 3. On February 27, 1995, the Regional Water Quality Control Board, Los Angeles Region
21 (Regional Board) adopted Order No. 95-023, which served as National Pollutant Discharge
22 Elimination System (NPDES) Permit No. CA0063509 and Waste Discharge Requirements for
23 the Facility.

24
25 4. Order No. 95-023 (A.2. Effluent Limitations) contained effluent limitations for chloride, total
26 petroleum hydrocarbons, sulfate, and oil and grease, as shown in the following table:

27

28	29	30	31
Constituent	Unit of Measure	Discharge Limitations (30-Day Average)	Discharge Limitations (Maximum)
Chloride	mg/l	--	150.0
Total Petroleum Hydrocarbons	mg/l	--	100.0
Sulfate	mg/l	--	300.0
Oil and Grease	mg/l	10	15.0

32

5. Twenty-five (25) violations of effluent limitations contained in Order No. 95-023 were noted in the Permittee's self-monitoring reports submitted for the first and second quarters of 2000. The violations are specifically identified in Exhibit "A" to this Complaint. Exhibit "A" is attached hereto and incorporated herein by reference.

6. On June 29, 2000, the Regional Board adopted Order No. 00-088, which renewed Order No. 95-023 (NPDES Permit No. CA0063509) and served as Waste Discharge Requirements for the Facility.

7. Order No. 00-088 (Effluent Limitations A.2.) contained effluent limitations for chloride and phenol, as shown below:

Constituent	Unit of Measure	Discharge Limitations (Monthly Average)	Discharge Limitations (Maximum)
Chloride	mg/l	--	150
Phenol	mg/l	300	--

8. On October 12, 2000, the Regional Board adopted Order No. 00-142, which amended Order No. 00-088 to remove the chloride effluent limitation. Order No. 00-142 state, "[t]his Order shall serve as an amendment to the National Pollutant Discharger Elimination System permit, pursuant to Section 402 of the Federal Clean Water Act or amendments thereto, and shall take effect at the end of tens days from the date of its adoption provided that the Regional Administrator of the U.S. Environmental Protection Agency has no objections." Order No. 00-142 therefore took effect on October 22, 2000, ten (10) days after the date of its adoption.

9. One (1) violation of the chloride effluent limitation and one (1) violation of the phenol effluent limitation contained in Order No. 00-088 were noted in the Permittee's self monitoring report for the third quarter of 2000 and the second quarter of 2005, respectively. The violations are specifically identified in Exhibit "A" to this Complaint.

10. On November 3, 2005, the Regional Board adopted Order No. R4-2005-0072, which renewed Order No. 00-088 (as amended by Order No. 00-142) (NPDES Permit No. CA0063509) and served as Waste Discharge Requirements for the Facility.

///

11. Order No. R4-2005-0072 (IV.A.1.a. Effluent Limitations – Discharge Point 001) contained effluent limitations for total recoverable lead, total recoverable selenium, phenol, methyl tertiary-butyl ether (MTBE), total petroleum-based hydrocarbons (C5-C14), and temperature, as shown in the following table:

Constituent	Unit of Measure	Discharge Limitations (Average Monthly)	Discharge Limitations (Maximum Daily)
Lead, Total Recoverable	µg/l	--	15
Selenium, Total Recoverable	µg/l	4.1	8.2
Phenol	µg/l	300	--
Methyl Tertiary-Butyl Ether	µg/l	13	--
Total Petroleum-Based Hydrocarbons (C5-C14)	µg/l	--	100
(Instantaneous Maximum)			
Temperature	°F	86	

12. Eighteen (18) violations of effluent limitations contained in Order No. R4-2005-0072 were noted in the Permittee's self-monitoring reports for the first and third quarters of 2006; the third quarter of 2007; the second quarter of 2008; the first and fourth quarters of 2009; the second and third quarters of 2010; and the first quarter of 2011. The violations are specifically identified in Exhibit "A" to this Complaint.
13. On September 26, 2008, the Director of the State Water Board Office of Enforcement issued the Permittee the Offer to Participate in Expedited Payment Program (EPP) No. SWB-4-2008-0003, which included a Notice of Violation notifying the Permittee of eight (8) effluent violations subject to a mandatory minimum penalty.
14. A review of the record verified five (5) of the eight (8) effluent violations identified in the September 26, 2008 Notice of Violation as subject to mandatory minimum penalties. Further review of the record identified forty (40) additional effluent violations as having occurred between 1 January 2000 and 31 March 2011. Of these, thirty-seven (37) violations are subject to mandatory minimum penalties. The five (5) verified violations identified in the September 26, 2008 Notice of Violation and the forty (40) additional violations are specifically identified in Exhibit "A" to this Complaint.

- 1 15. Any discharge containing pollutants violating the effluent limitations set in the waste discharge
2 requirements is prohibited by CWC Section 13376.
3
- 4 16. CWC Section 13385(h) requires the Water Boards to assess a mandatory minimum penalty of
5 three thousand dollars (\$3,000) for each serious violation. Pursuant to CWC Section
6 13385(h)(2) "a serious violation is defined as any waste discharge that violates the effluent
7 limitations contained in the applicable waste discharge requirements for a Group II pollutant by
8 20 percent or more, or for a Group I pollutant by 40 percent or more. Appendix A of Part 123.45
9 of Title 40 of the Code of Federal Regulations specifies the Group I and II pollutants."
10
- 11 17. CWC Section 13385(i) requires the Water Boards to assess a mandatory minimum penalty of
12 three thousand dollars (\$3,000) for each violation whenever the permittee violates a waste
13 discharge requirement effluent limitation in any period of six consecutive months, except that the
14 requirement to assess the mandatory minimum penalty shall not be applicable to the first three
15 violations within that time period
16
- 17 18. The maximum amount of discretionary administrative civil liability assessable pursuant to CWC
18 Section 13385 for each day of violation is \$10,000 per day of violation plus \$10 times the
19 number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.
20

21 **YOU ARE HEREBY GIVEN NOTICE THAT:**
22

- 23 19. The Director of the State Water Board Office of Enforcement proposes that the Permittee be
24 assessed a mandatory minimum penalty in the amount of \$111,000.00 for the violations cited in
25 Exhibit "A." Refer to Exhibit "A" for the calculation of the amount of mandatory minimum
26 penalty.
27
- 28 20. The Permittee may waive the right to a hearing and pay the recommended administrative civil
29 liability. Should the Permittee choose to waive its right to a hearing, an authorized agent must
30 sign the waiver form attached to this Complaint and return it to the State Water Board by
31 5:00 p.m. on August 24, 2011. If the hearing is waived, a check in the amount of \$111,000.00
32

1 (payable to the State Water Pollution Cleanup and Abatement Account) must be received by the
2 State Water Board by 5:00 p.m. on August 24, 2011.

3
4 21. If the State Water Board does not receive a waiver and full payment of the recommended penalty
5 by August 24, 2011, the Complaint will be heard before the State Water Board Hearing Officer
6 pursuant to California Water Code Sections 13323(c) and 183. The Notice of Public Hearing
7 contains that date, time, location, and specific procedures of the scheduled hearing of this matter.

8
9 22. If a hearing on this matter is held, the State Water Board will consider whether to affirm, reject,
10 or modify (*i.e.* increase the proposed civil liability above the mandatory minimum) the proposed
11 civil liability, or whether to refer the matter to the Attorney General for assessment of judicial
12 civil liability.

13
14 23. There are no statutes of limitation that apply to administrative proceedings. The statutes of
15 limitation that refer to "actions" and "special proceedings" and are contained in the California
16 Code of Civil Procedure apply to judicial proceedings, not administrative proceeding. See *City*
17 *of Oakland v. Public Employees' Retirement System* (2002) 95 Cal. App. 4th 29, 48; 3 Witkin,
18 Cal. Procedure (4th ed. 1996) Actions, Section 405(2), p. 510.)

19
20 24. Notwithstanding the issuance of this Complaint, the State Water Board and/or the Regional
21 Board shall retain the authority to assess additional penalties for violations of the requirements of
22 the Permittee's waste discharge requirements for which penalties have not yet been assessed or
23 for violations that may subsequently occur.

24
25 25. This enforcement action is exempt from the provisions of the California Environmental Quality
26 Act, California Public Resources Code Section 21000 *et seq.*, in accordance with California
27 Code of Regulations, Title 14, Section 15321.

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1 26. Regulations of the United States Environmental Protection Agency require public notification of
2 any proposed settlement of the civil liability occasioned by violation of the Clean Water Act
3 including NPDES permit violations. Accordingly, interested persons will be given 30 days to
4 comment on any proposed settlement of this Complaint.
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7 
8 Reed Sato
9 Director, Office of Enforcement
State Water Resources Control Board


Date

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WAIVER FORM

FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. OE-2011-0005

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

I am duly authorized to represent Kinder Morgan SFPP, L.P. (formerly Santa Fe Pacific Pipeline) (hereinafter "Permittee") in connection with Administrative Civil Liability Complaint No. OE-2011-0005 (hereinafter the "Complaint"). I am informed that California Water Code Section 13323, subdivision (c), states that, "any hearing shall be before the state board, or before a member of the state board in accordance with Section 183, and shall be conducted not later than 90 days after the party has been served [with the complaint]."

(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 State Water Resources Control Board Hearing Officer.
- b. I certify that the Permittee will remit payment for the civil liability imposed in the amount of **\$111,000.00** by check that references "ACL Complaint No. OE-2011-0005" made payable to the "State Water Pollution Cleanup and Abatement Account". Payment must be received by the State Water Board by August 26, 2011 or this matter will be placed on the State Water 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 State Water Board receive significant new information or comments from any source (excluding the Water Board's Prosecution Team) during this comment period, the Director of the State Water Board Office of Enforcement may withdraw the complaint, return payment, and issue a new complaint. I understand that this proposed settlement is subject to approval by the State Water Board, and that the State 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)

**HEARING OF THE
STATE WATER RESOURCES CONTROL BOARD**

1001 "I" Street
P.O. Box 100
Sacramento, California 95814
(916) 341-5272

ACLC No. OE-2011-0005

NOTICE OF PUBLIC HEARING

TO CONSIDER AN ADMINISTRATIVE CIVIL LIABILITY

<u>DISCHARGER</u>	<u>DISCHARGE LOCATION</u>	<u>RECEIVING WATERS</u>
KINDER MORGAN SFPP, L.P. (FORMERLY SANTA FE PACIFIC PIPELINE)	15306 NORWALK BOULEVARD, SANTA CLARITA, CA 91350	COYOTE CREEK

Administrative Civil Liability Complaint ("ACLC") No. OE-2011-0005 alleges that Kinder Morgan SFPP, L.P. (formerly Santa Fe Pacific Pipeline) (Permittee) violated waste discharge requirements contained in Regional Board Order Nos. 95-023, 00-088 (as amended by Order No. 00-142), and R4-2005-0072 by failing to comply with effluent limits. As stated in the ACLC, State Water Board staff, represented by the State Water Board Staff Prosecution Team (Prosecution Team), recommends that a penalty of \$111,000.00 be assessed against Kinder Morgan SFPP, L.P. for these violations.

Pursuant to Water Code Section 13323(c) and Section 183, a member of the State Water Board will convene a hearing to hear evidence, determine facts, and to propose a recommendation to the State Water Board about resolution of the ACLC.

This notice sets forth procedures and outlines the process to be used at this hearing.

I. HEARING DATE AND LOCATION

Date: October 19-20, 2011
Time: 10:00 A.M.
Place: 320 W. 4th Street
Los Angeles, CA 90013
* Room location TBD

II. AVAILABILITY OF DOCUMENTS

The ACLC and other documents concerning the, proposed order, comments received, and other information about the subject of the ACLC are available for inspection and copying between the hours of 8:00 a.m. and 5:00 p.m. at the following address:

California Regional Water Quality Control Board
Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, CA 90013

Arrangements for file review and/or copies of the documents may be made by calling Mr. Hugh Marley of the Los Angeles Regional Board at (213) 620-6375. Comments received, the Prosecution Team's proposed Hearing Report and Order, and other subsequent relevant documents will be available as they are received or generated.

The entire file will become a part of the administrative record of this proceeding, irrespective of whether individual documents are specifically referenced during the hearing or contained in the Hearing binder. However, the entire file might not be present at the hearing. Should any parties or interested persons desire that the Prosecution Team bring to the hearing any particular documents that are not included in the Hearing binder, they must submit a written or electronic request to the Case Manager of the Prosecution Team (identified in Section V below) so that it is received by 5:00 p.m. on October 1, 2011. The request must identify the documents with enough specificity for the Prosecution Team to locate them. (Documents in the Hearing binder will be present at the hearing.)

III. NATURE OF HEARING

This will be a formal adjudicative hearing pursuant to Section 648 et seq. of Title 23 of the California Code of Regulations. Chapter 5 of the California Administrative Procedure Act (commencing with Section 11500 of the Government Code) relating to formal adjudicative hearings does not apply to adjudicative hearings before the State Water Board, except as otherwise specified in the above-referenced regulations.

IV. PARTIES TO THE HEARING

The following are the parties to this proceeding:

1. Kinder Morgan SFPP, L.P. (formerly Santa Fe Pacific Pipeline)
2. State Water Board Staff Prosecution Team

All other persons who wish to participate in the hearing as a designated party shall request party status by submitting a written or electronic request to the Legal Advisor to the Hearing Officer identified in Section VIII below so that it is received by 5:00 p.m. on **August 4, 2011**. All requests for designation as a party shall include the name, phone number, and email address of the person who is designated to receive notices about this proceeding. The request shall include a statement explaining why the party or parties designated above do not adequately represent the person's interest. The requesting party will be notified before the hearing whether the request is granted. All parties will be notified if other persons are so designated.

V. COMMUNICATIONS WITH THE PROSECUTION TEAM

The California Administrative Procedure Act requires the State Water Board to separate prosecutorial and adjudicative functions in matters that are prosecutorial in nature. A Prosecution Team, comprised of the State Water Board enforcement and other staff, will serve as the complainant in the proceedings and is a designated party. The Case Manager over this matter, who will coordinate the efforts of the Prosecution Team, is Melissa Hall, Senior Water Resources Control Engineer from the State Water Board. Mayumi Okamoto, Staff Counsel from the State Water Board's Office of Enforcement will advise the Prosecution Team prior to and at the hearing. Neither Ms. Okamoto nor the members of the Prosecution Team will be advising the State Water Board in this matter or have engaged in any substantive conversations regarding the issues involved in this proceeding with any of the Board Members or the advisors to the Hearing Officer (identified below).

Any communication with the Prosecution Team prior to the hearing should be directed to the Case Manager:

Melissa Hall, PE
RCE No. 67654
Office of Enforcement
1001 I Street, 16th Floor
Sacramento, CA 95814
(916) 341-5773
MHall@waterboards.ca.gov

VI. PUBLIC COMMENTS AND SUBMITTAL OF EVIDENCE

A. Submittals By Parties.

Not later than **September 12, 2011**, the Prosecution Team will send the parties a preliminary Hearing binder containing the most pertinent documents related to this proceeding and a PowerPoint presentation, which summarizes the evidence and testimony that the Prosecution Team will present and rely upon at the hearing.

Kinder Morgan SFPP, L.P. is required to submit:

- 1) Any additional documents or evidence Kinder Morgan SFPP, L.P. wants the Hearing Officer to consider,
- 2) A summary of any legal and technical arguments and testimony Kinder Morgan SFPP, L.P. intends to present, and
- 3) A statement regarding how much time Kinder Morgan SFPP, L.P. needs to present the case

to the attention of the Case Manager of the Prosecution Team (as identified above) and other designated parties so that it is received by **5:00 p.m. on September 21, 2011**. All documentation listed above must be received by the deadline, or it may be excluded from consideration by the Hearing Officer. The Prosecution Team shall have the right to present additional evidence in rebuttal of matters submitted by any other party.

The Prosecution Team will send to the Hearing Officer and the parties a final Hearing binder no later than **October 11, 2011**. An agenda containing the date, time, and location of the hearing will be mailed to Kinder Morgan SFPP, L.P. at least 10 days prior to the hearing date.

B. Submittals By Interested Persons.

Persons who are not designated as parties, above, that wish to comment upon or object to the proposed ACLC, or submit evidence for the Hearing Officer to consider, are invited to submit them in writing to the Prosecution Team (as identified above). To be evaluated and responded to by the Prosecution Team, included in the final Hearing binder, and fully considered by the Hearing Officer in advance of the hearing, any such written materials must be received by **5:00 p.m. on August 24, 2011**. If possible, please submit written comments in Word format electronically to the Case Manager. Interested persons should be aware the State Water Board is entitled to settle this matter without further notice, and therefore a timely submittal by this date may be the only opportunity to comment upon the subject of this ACLC. If the hearing

proceeds as scheduled, the Hearing Officer will also receive oral comments from any person during the hearing (see below).

VII. HEARING PROCEDURES

Adjudicative proceedings before the Hearing Officer generally will be conducted in the following order:

- Opening statement by Hearing Officer
- Administration of oath to persons who intend to testify
- Prosecution Team presentation
- Discharger presentation
- Designated parties' presentation (if applicable)
- Interested persons' comments
- Prosecution Team rebuttal
- Questions from Hearing Officer
- Deliberations (in open or closed session)
- Announcement of recommendation to the State Water Board

While this is a formal administrative proceeding, the Hearing Officer does not generally require the cross-examination of witness, or other procedures not specified in this notice, that might typically be expected of parties in a courtroom.

Parties will be advised by the Hearing Officer after the receipt of public comments, but prior to the date of the hearing, of the amount of time each party will be allocated for presentations. That decision will be based upon the complexity and the number of issues under consideration, the extent to which the parties have coordinated, the number of parties and interested persons anticipated, and the time available for the hearing. The parties should contact the Case Manager by **5:00 p.m. on September 21, 2011** to state how much time they believe is necessary for their presentations (see Section VI. A above). It is the State Water Board's intent that reasonable requests be accommodated.

Interested persons are invited to attend the hearing and present oral comments. Interested persons may be limited to approximately five (5) minutes each, for their presentations, in the discretion of the Hearing Officer, depending on the number of persons wishing to be heard. Persons with similar concerns or opinions are encouraged to choose one representative to speak.

For accuracy of the record, all important testimony should be in writing, and delivered as set forth above. All written materials must be received by the deadlines identified in Section VI.A. and VI.B., above, or it may be excluded from consideration by the Hearing Officer. The Hearing Officer will include in the administrative record written transcriptions of oral testimony or comments made at the hearing.

VIII. COMMUNICATIONS WITH THE HEARING OFFICER

A. Ex Parte Communications Prohibited.

As an adjudicative proceeding, State Water Board members and their advisors may not discuss the subject of this hearing with any person, except during the public hearing itself, except in the limited circumstances and manner described in this notice. **Any communications to the State Water Board, Hearing Officer, or Hearing Officer Advisors before the hearing must also be copied to the Prosecution Team and other Party(ies), as identified above.**

B. Hearing Officer Advisors.

The Hearing Officer will be advised before and during the hearing by a technical advisor Tim Regan, Senior Staff Counsel, and/or Phil Wyels, Assistant Chief Counsel. None of these individuals has exercised any authority or discretion over the Prosecution Team, or advised them with respect to this matter.

C. Objections to manner of hearing and resolution of any other issues.

1. Parties or interested persons with procedural requests different from or outside of the scope of this notice should contact the Case Manager at any time, who will try to accommodate the requests. Agreements between a party and the Prosecution Team will generally be accepted by the Hearing Officer as stipulations.
2. Objections to (a) any procedure to be used or not used during this hearing, (b) any documents or other evidence submitted by the Prosecution Team, or (c) any other matter set forth in this notice, must be submitted in writing by **5:00 p.m. on September 21, 2011** to the Legal Advisor to the Hearing Officer:

Tim Regan
State Water Resources Control Board
1001 I Street, 22nd Floor
Sacramento, CA 95814
(916) 341-5172
TRegan@waterboards.ca.gov

Untimely objections will be deemed waived. Procedural objections about the matters contained in this notice will not be entertained at the hearing. Further, except as otherwise stipulated, any procedure not specified in this hearing notice will be deemed waived pursuant to Section 648(d) of Title 23 of the California Code of Regulations, unless a timely objection is filed.

3. Any issues outside the scope of those described in Section C.2, above, that cannot be resolved by stipulation shall be brought to the attention of the Legal Advisor to the Hearing Officer, as set forth in Section C.2, by **5:00 p.m. on September 21, 2011** if possible, and if not possible, then at the earliest possible time with an explanation about why the issue could not have been raised sooner.

IX. QUESTIONS ABOUT NOTICE

Questions about notice may be directed to the Case Manager of the Prosecution Team, or the Legal Advisor to the Hearing Officer as described above.

Date: July 26, 2011

Effluent Limitation Violations Requiring Mandatory Minimum Penalties

#	Violation Number	Violation Date*	Parameter	Pollutant Group	Exempted from MMP?	Limitation Period	Limit	Result/Average	Units	% Over Limit	Date 180 Days Prior	Serious** Violation?	Effluent Violations in Past 180 Days	Mandatory Fine?	Penalty
1	905222	13-Jan-2000	Chloride	I	No	Daily	150.0	240	mg/l	60	17-Jul-1999	Yes	0	Yes	\$3,000
2	905223	20-Jan-2000	Chloride	I	No	Daily	150.0	240	mg/l	60	24-Jul-1999	Yes	N/A	Yes	\$3,000
3	791524	20-Jan-2000	Total Petroleum Hydrocarbons	II	No	Daily	100.0	261	µg/l	161	24-Jul-1999	Yes	N/A	Yes	\$3,000
4	905224	26-Jan-2000	Chloride	I	No	Daily	150.0	200	mg/l	33	30-Jul-1999	No	3	Yes	\$3,000
5	905225	11-Feb-2000	Chloride	I	No	Daily	150.0	210	mg/l	40	15-Aug-1999	Yes	N/A	Yes	\$3,000
6	905228	18-Feb-2000	Chloride	I	No	Daily	150.0	200	mg/l	33	22-Aug-1999	No	5	Yes	\$3,000
7	905249	18-Feb-2000	Oil and Grease	I	No	Daily	15.0	26	mg/l	73	22-Aug-1999	Yes	N/A	Yes	\$3,000
8	905229	24-Feb-2000	Chloride	I	No	Daily	150.0	160	mg/l	7	28-Aug-1999	No	7	Yes	\$3,000
9	905250	2-Mar-2000	Sulfate	I	No	Daily	300.0	360	mg/l	20	4-Sep-1999	No	8	Yes	\$3,000
10	905230	2-Mar-2000	Chloride	I	No	Daily	150.0	270	mg/l	80	4-Sep-1999	Yes	N/A	Yes	\$3,000
11	905231	10-Mar-2000	Chloride	I	No	Daily	150.0	190	mg/l	27	12-Sep-1999	No	10	Yes	\$3,000
12	905232	15-Mar-2000	Chloride	I	No	Daily	150.0	210	mg/l	40	17-Sep-1999	Yes	N/A	Yes	\$3,000
13	905233	23-Mar-2000	Chloride	I	No	Daily	150.0	190	mg/l	27	25-Sep-1999	No	12	Yes	\$3,000
14	905234	31-Mar-2000	Chloride	I	No	Daily	150.0	180	mg/l	20	3-Oct-1999	No	13	Yes	\$3,000
15	905235	6-Apr-2000	Chloride	I	No	Daily	150.0	190	mg/l	27	9-Oct-1999	No	14	Yes	\$3,000
16	905236	13-Apr-2000	Chloride	I	No	Daily	150.0	180	mg/l	20	16-Oct-1999	No	15	Yes	\$3,000
17	905237	20-Apr-2000	Chloride	I	No	Daily	150.0	180	mg/l	20	23-Oct-1999	No	16	Yes	\$3,000
18	905239	27-Apr-2000	Chloride	I	No	Daily	150.0	190	mg/l	27	30-Oct-1999	No	17	Yes	\$3,000
19	905241	17-May-2000	Chloride	I	No	Daily	150.0	190	mg/l	27	19-Nov-1999	No	18	Yes	\$3,000
20	905242	25-May-2000	Chloride	I	No	Daily	150.0	180	mg/l	20	27-Nov-1999	No	19	Yes	\$3,000
21	905243	2-Jun-2000	Chloride	I	No	Daily	150.0	200	mg/l	33	5-Dec-1999	No	20	Yes	\$3,000
22	905244	9-Jun-2000	Chloride	I	No	Daily	150.0	190	mg/l	27	12-Dec-1999	No	21	Yes	\$3,000
23	905245	15-Jun-2000	Chloride	I	No	Daily	150.0	210	mg/l	40	18-Dec-1999	Yes	N/A	Yes	\$3,000
24	905246	23-Jun-2000	Chloride	I	No	Daily	150.0	220	mg/l	47	26-Dec-1999	Yes	N/A	Yes	\$3,000
25	905247	28-Jun-2000	Chloride	I	No	Daily	150.0	200	mg/l	33	31-Dec-1999	No	24	Yes	\$3,000
26	905248	3-Aug-2000	Chloride	I	No	Daily	150	260	mg/l	73	5-Feb-2000	Yes	N/A	Yes	\$3,000
27	356980	30-Jun-2005	Phenol	II	No	Monthly	300	1,800	µg/l	500	1-Jan-2005	Yes	N/A	Yes	\$3,000
28	431248	25-Jan-2006	Lead, Total Recoverable	II	No	Daily	15	20.6	µg/l	37	29-Jul-2005	Yes	N/A	Yes	\$3,000
29	431250	31-Mar-2006	Selenium, Total Recoverable	II	No	Monthly	4.1	6.15	µg/l	50	2-Oct-2005	Yes	N/A	Yes	\$3,000
30	449933	14-Jul-2006	Temperature	OEV	No	Instantaneous	86	90.7	degrees F	N/A	15-Jan-2006	No	2	No	\$0
31	449934	8-Aug-2006	Temperature	OEV	No	Instantaneous	86	91.0	degrees F	N/A	9-Feb-2006	No	2	No	\$0
32	431249	31-May-2007	Selenium, Total Recoverable	II	No	Monthly	4.1	6.77	µg/l	65	2-Dec-2006	Yes	N/A	Yes	\$3,000
33	712381	7-Aug-2007	Total Petroleum Hydrocarbons	II	No	Daily	100.0	130	µg/l	30	8-Feb-2007	Yes	N/A	Yes	\$3,000
34	712382	5-Sep-2007	Selenium, Total Recoverable	II	No	Daily	8.2	8.39	µg/l	2	9-Mar-2007	No	2	No	\$0
35	791521	30-Sep-2007	Selenium, Total Recoverable	II	No	Monthly	4.1	7.10	µg/l	73	3-Apr-2007	Yes	N/A	Yes	\$3,000
36	905275	30-Apr-2008	Selenium, Total Recoverable	II	No	Monthly	4.1	4.29	µg/l	5	2-Nov-2007	No	0	No	\$0
37	831123	6-Jan-2009	Selenium, Total Recoverable	II	No	Daily	8.2	12.6	µg/l	54	10-Jul-2008	Yes	N/A	Yes	\$3,000
38	905277	31-Mar-2009	Selenium, Total Recoverable	II	No	Monthly	4.1	5.06	µg/l	23	2-Oct-2008	Yes	N/A	Yes	\$3,000
39	905279	31-Oct-2009	Selenium, Total Recoverable	II	No	Monthly	4.1	4.58	µg/l	12	4-May-2009	No	0	No	\$0
40	905281	30-Nov-2009	Selenium, Total Recoverable	II	No	Monthly	4.1	5.01	µg/l	22	3-Jun-2009	Yes	N/A	Yes	\$3,000
41	905283	31-Dec-2009	Selenium, Total Recoverable	II	No	Monthly	4.1	5.77	µg/l	41	4-Jul-2009	Yes	N/A	Yes	\$3,000
42	877401	31-May-2010	Selenium, Total Recoverable	II	No	Monthly	4.1	4.36	µg/l	6	2-Dec-2009	No	1	No	\$0
43	905284	30-Jun-2010	Selenium, Total Recoverable	II	No	Monthly	4.1	5.43	µg/l	32	1-Jan-2010	Yes	N/A	Yes	\$3,000
44	883374	13-Jul-2010	Temperature	OEV	No	Instantaneous	86.0	86.4	degrees F	N/A	14-Jan-2010	No	2	No	\$0

Effluent Limitation Violations Requiring Mandatory Minimum Penalties

#	Violation Number	Violation Date*	Parameter	Pollutant Group	Exempted from MMP?	Limitation Period	Limit	Result/Average	Units	% Over Limit	Date 180 Days Prior	Serious** Violation?	Effluent Violations in Past 180 Days	Mandatory Fine?	Penalty
45	431247	11-Jan-2011	Methyl tertiary-butyl ether (MTBE)	II	No	Monthly	13	14	µg/l	8	15-Jul-2010	No	0	No	\$0

Total Penalty: \$111,000

* Violation occurs on sample date or last date of averaging period.

** For Group I pollutants, a violation is serious when the limitation for the parameter of concern is exceeded by more than 40%.
 For Group II pollutants, a violation is serious when the limitation for the parameter of concern is exceeded by more than 20%.
 Mandatory penalties effective 1 January 2000.

Violation review period ending 30 June 2010

Group I Violations Subject to MMPs:	25	Group I Violations Assessed MMP:	25
Group II Violations Subject to MMPs:	17	Group II Violations Assessed MMP:	12
Other Effluent Violations Subject to MMPs:	3	Other Effluent Violations Assessed MMP:	0
Total Violations Subject to MMP:	45	Total Violations Assessed MMP:	37
Violations Exempt from MMPs:	0		
Total Effluent Violations:	45		

Mandatory Minimum Penalty = (21 Serious Violations + 16 Non-Serious Violations) x \$3,000 = \$111000