

Law Office of Jack Silver

P.O. Box 5469 Santa Rosa, California 95402
Phone 707-528-8175 Fax 707-528-8675
lhm28843@sbcglobal.net



***VIA REGISTERED MAIL - -
RETURN RECEIPT REQUESTED***

March 14, 2011

Chief Executive Officer
Kinder Morgan, Inc.
500 Dallas Street, Suite 1000
Houston TX 77002

Managing Partner
Kinder Morgan Energy Partners, L.P.
1100 Town & Country Road
Orange, CA 92868

Managing Partner
SFPP, L.P.
1100 Town & Country Road
Orange, CA 92868

**Re: Notice of Violations and Intent to File Suit under the Resource
Conservation and Recovery Act**

Dear Owners, Partners, Site Managers and other Responsible Parties:

NOTICE

On behalf of Northern California River Watch (hereafter, "River Watch") I am providing statutory notification to Kinder Morgan, Inc., Kinder Morgan Energy Partners, L.P. and SFPP, L.P., (hereafter, "Responsible Parties") of your continuing and ongoing violations of the federal Resource Conservation and Recovery Act ("RCRA," 42 U.S.C. § 6901 et seq.) in conjunction with former or continuing operations at the sites identified in this Notice. River Watch also intends to provide notice of the same violations to each of the owners of the real property on which the sites are situated. Pursuant to provisions of the RCRA, the current owners of the real properties underlying these sites may be in part responsible for ongoing contamination due to mere ownership of the real property under which hazardous contamination has been found.

River Watch hereby notifies you that at the expiration of the appropriate notice periods provided under the RCRA, River Watch intends to commence a civil action against Responsible Parties on the following grounds:

1. Responsible Parties' handling, transportation and unauthorized releases of various petroleum products at the sites identified in this Notice has violated and continues to violate permits, standards, regulations, conditions, requirements and/or prohibitions effective pursuant to the RCRA regarding the past and/or present handling, storage, treatment, transportation and/or disposal of hazardous products (42 U.S.C. § 6972 (a)(1)(A));
2. Responsible Parties' past and current operations at the sites identified in this Notice have caused petroleum contamination in soils, in groundwater and in surface waters which presents an imminent and substantial endangerment to human health and the environment (42 U.S.C. § 6972 (a)(1)(B); and,
3. Responsible Parties' past and current operations at the sites identified in this Notice violates the provisions of RCRA subchapter III (Subtitle C) which governs the handling of hazardous wastes. River Watch contends Responsible Parties have inadequately maintained records of the manner in which hazardous wastes have been treated, stored and/or disposed of; inadequately monitored, reported and/or complied with existing regulations concerning wastes; inadequately provided storage or transportation facilities for wastes; and, in the past have not developed adequate contingency plans for effective action to minimize damage from the unauthorized releases of hazardous contaminants – all of which has presented and continues to present a substantial endangerment to human health and to the environment.

SITES AND BACKGROUND HISTORY

Kinder Morgan Energy Partners, Richmond Station, 520 Castro Street, Richmond, CA

This site is located in a heavy industrial area bordered by a Union Pacific rail yard to the east and south, by Castro Street and the General Chemical Plant and Chevron Products Company to the west, and by the SFPP underground pipeline corridor and Union Pacific rail lines to the north.

The initial unauthorized petroleum releases at this site occurred in 2002. In March of 2002, an above-ground gasket failure caused an extensive hydrocarbon release. In September of that year a flange failure in a buried pipeline resulted in another. Petroleum hydrocarbon contamination was recovered from the ground surfaces in the manifold area of the site, a southeastern drainage ditch area, a storm drain on the property, and from Herman

Slough to the south, adjacent to the Chevron Refinery site. Following cleanup efforts, soil borings were installed in the manifold area to assess the extent of contamination resulting from these releases. Thereafter, over-excavation of the area was conducted, and the affected soil was removed. Engineering consultants for Kinder Morgan Energy Partners, L.P. estimate that between 19,100 and 35,220 pounds of petroleum hydrocarbons were recovered due to the initial product recovery efforts and excavation work done at that time.

Groundwater monitoring of the extent of residual contamination has occurred since 2003. In addition, the company built a concrete slurry wall along the eastern and southern portions of the site in November of 2002 extending to six ft. bgs, and thought to be sufficient to prevent shallow, downgradient migration of the hydrocarbon contamination. Groundwater flow is generally to the southwest, has typically been found within 5 ft. bgs., and is considered to be tidally influenced by the proximity of the Bay.

Other than the initial over-excavation, construction of the slurry wall and a very limited period of groundwater extraction in July of 2005, documents available to River Watch at this time indicate no remediation work has been conducted for the purpose of reducing or eliminating the hydrocarbon contamination that lies in a large plume beneath the property.

At the present time, the engineering consultant is relying upon nothing more than natural attenuation in the hope of eventually achieving complete remediation. However, on the basis of the last available site monitoring records (GeoTracker: 12/15/2009), considerable contamination remains in groundwater despite the current strategies being used.

Third quarter analytical findings of monitoring wells indicate pure hydrocarbon product (SPH) sheen has been observed in three wells (PRW-4A, PRW-28 and PRW-36), and in seven wells at the time of the fourth quarter monitoring (PRW-4A, PRW-12, PRW-17, PRW-21, PRW-28, PRW-31, and PRW-32). The presence of hydrocarbon sheen in this number of wells tends to belie the estimates that natural attenuation is successfully achieving remediation. Findings in consultant reports in 2005 (2d qtr.) and in 2007 (3d and 4th qtrs.) indicate almost no evidence of hydrocarbon sheens in the wells.

These analytical findings in late 2009 also reflect high levels of petroleum constituent contamination. TPHg (aka GRO) was found as high as 30,000 µg/l, TPHd was found as high as 45,000 µg/l, TPHe (oil range organics) was found as high as 18,000 µg/l, benzene was found as high as 1,300 µg/l, MTBE was found as high as 11,000 µg/l, TBA was found as high as 5,200 µg/l, and TAME was found as high as 3,900 µg/l.

Documents available to River Watch reflect that a full scale evaluation of the site has not been conducted to date. It appears that some data has not been gathered, or at least is not readily available. River Watch believes that in order to adequately remediate a given hydrocarbon contamination site, a number of preliminary investigatory steps must be taken

before effective clean up can be accomplished. Some of these steps are listed below. On the basis of the current condition of this site, River Watch believes the following investigatory and remediation work must be implemented immediately:

1. Complete delineation of the site (including vertical delineation) for the purpose of enabling a comprehensive evaluation as to the extent of underlying contamination so that further remediation work may proceed. This should include an evaluation of the potential for migration beneath the shallow slurry wall where sheen was found in four wells beyond the wall (downgradient of the site) in 2007;
2. Initiation of vapor intrusion testing in any buildings or work areas (if any) above the plume to determine whether nearby employees at the site and/or third parties are being exposed to injurious levels of hydrocarbon, benzene or other toxic vapors;
3. Consideration of further over-excavation to eliminate lingering sources of SPH, MTBE, and petroleum hydrocarbon constituents from migrating into offsite groundwater and surface waters;
4. Completion of a current sensitive receptor survey to outline and prevent threats to offsite surface water and local water supply wells. This should include testing of Herman Slough for SPH in the same areas where SPH was initially recovered in 2002;
5. Completion of preferential pathway studies to determine whether there are conduits, sewer lines, storm drains, gravel lenses or other avenues by which hydrocarbons and constituents may be migrating offsite, and under or around the slurry wall;
6. Current residual mass calculations which will allow the measurement of remediation progress once remediation processes are initiated.
7. Initiation of proactive remediation work (beyond natural attenuation strategies) as soon as the necessary investigations and assessments are concluded.

**Kinder Morgan Concord Station
1550 Solano Way, Concord, California**

The Concord Station is owned and operated by SFPP, L.P., an operating partnership to Kinder Morgan Energy Partners, L.P. The Concord Station is a 38-acre petroleum fuel storage (tank farm) and distribution facility located on Solano Way. This facility stores gasoline, diesel and jet fuel which is then delivered to various outlets and industrial users.

Between 1985 and 2003, unauthorized releases of petroleum occurred in volumes reported as high as 56,000 gallons due to pipeline ruptures. A tank overflow in 1991 resulted in the release of approximately 42,000 gallons of diesel fuel. The various releases have resulted in the presence of SPH which continues to exist throughout the contaminant plume beneath the site. Extensive investigations have occurred since the late 1980s, and groundwater monitoring has been conducted since the early 1990s with the installation of some 80 monitoring and extraction wells and several French drains. In 1999 phytoremediation was conducted with the planting of over 60 Fremont Poplar trees southwest and downgradient of the groundwater plume (west in Area IV), in an attempt to interdict the migration of hydrocarbon contamination. Groundwater at the site is found between 4 and 5 ft. bgs.

In the first and second quarters of 2010, measurable SPH was detected in eight mobile product recovery monitoring points in Area 1. Thicknesses of SPH at these points has recently been as much as 4.25 feet. During the first quarter of 2010, an increase in product thickness was observed in three of these monitoring wells. Daily monitoring of EX-18 and EX-19 began in 2009 after large increases in SPH levels were observed in these two wells. The daily monitoring continues to the present date.

In wells without SPH or a hydrocarbon sheen, TPHg levels have recently been found as high as 17,000 µg/l, benzene as high as 5,100 µg/l, and MTBE as high as 790 µg/l. Over the last 12 years, MTBE has *increased* in both shallow well LF-16 and deep well LF-27, which may have resulted from a sub-surface pipeline leak occurring in 1988.¹ In these same wells, TPHg has doubled during the past year of monitoring, despite existing remediation efforts.

To address the levels of contaminants, TRC, the engineering consultant, has adopted a mobile product recovery program (conducted monthly in eight wells) to extract product from each of the wells using a pump. Once the product is removed from a given well, the next well in line is addressed. But according to TRC, the pumping is conducted a maximum of only three times at a well with SPH, even though additional pumping would recover contamination from the groundwater.²

In addition to the phytoremediation described above, a “total fluids extraction system” has been deployed for some time. This system transfers recovered fluids to an onsite oil/water separator. The “total fluids extraction system” appears to be a minimalist remediation strategy, inasmuch as only *45 gallons* of product and water were recovered during the first two quarters of 2010, and only 7,525 gallons of product and water have been recovered since the program was initiated in October of 1998, over 12 years ago.

¹ TRC, First and Second Quarter 2010 Groundwater Monitoring Report, sec. 3.2.4.

² TRC, *supra*, sec. 4.1.

There is also a water treatment system designed to remove some dissolved-phase petroleum hydrocarbons from groundwater, which apparently is integrally connected to the treatment of process water generated as part of site operations. TRC indicates additional remediation is in the planning stages, to include more downgradient tree planting.

In February of 2010 hydrocarbon sheens were seen in 35 of 57 wells where product thicknesses were measured, and measurable SPH in an additional five of the extraction wells. In May of 2010, hydrocarbon sheens were found in 34 of these wells, with measurable SPH in an additional four wells.

On the basis of remediation work that has been and is being conducted, it is apparent to River Watch that efforts to clean up this site have been ineffective over the past 25 years since the first release was recorded. On the basis of the current condition of the site, River Watch believes the following investigatory and remediation work must be implemented immediately:

1. Complete delineation of the site (including vertical delineation) for the purpose of enabling further remediation work to proceed with the benefit of a comprehensive evaluation of the full extent and location of the existing contamination. This should include an evaluation of the potential for contaminant migration beneath the phytoremediation plantings to the southwest of Area IV;
2. Initiation of vapor intrusion testing in any buildings or work areas (if any) above the plume to determine whether nearby employees at the site and/or third parties are being exposed to injurious levels of hydrocarbons, benzene or other toxic vapors;
3. Consideration of further over-excavation in each of the areas where hydrocarbon sheens have been observed to eliminate lingering sources of SPH, MTBE, and petroleum hydrocarbon constituents from migrating into offsite groundwater and surface waters;
4. Completion of a current sensitive receptor survey to outline and prevent threats to offsite surface water and local water supply wells. This should include testing of downgradient Walnut Creek for SPH, inasmuch as this Creek lies only 250 ft. beyond the boundary of Area IV;³

³ In 1987 a thick layer of SPH was found on the surface of Walnut Creek resulting from the outflow of a 66 inch storm drain from the Concord property. The storm drain was found to have a number of leaky joints through which SPH had entered the drain system.

5. Completion of preferential pathway studies to determine whether there are conduits, sewer lines, storm drains, gravel lenses or other avenues by which hydrocarbons and constituents may be migrating offsite;
6. Current residual mass calculations which will allow the measurement of remediation progress once remediation processes are initiated;
7. Initiation of proactive and aggressive remediation work as soon as the necessary investigations and assessments are concluded, and could include dual-phase extraction on a 24/7 basis to substantially reduce the extent of ongoing contamination.

**Kinder Morgan Energy Partners, L.P. – Selby Pond Release Site
San Pablo Avenue, Rodeo, CA**

Kinder Morgan Energy Partners, L.P. and SFPP, L.P. operate a large pipeline which transports gasoline and diesel extending from Richmond and Concord and as far south as San Jose. In February of 1996, the transported products included MTBE. In that month a small leak in the pipeline was discovered northeast of San Pablo Avenue in Rodeo, causing a sheen on an ephemeral surface water known as Selby Pond.

Groundwater in this area is tidally influenced by the proximity of San Pablo Bay, approximately 500 ft. to the northwest. Groundwater flows to the northwest, and ranges from between one and four feet bgs. Selby Pond is seasonal open water, but is seasonally dry. When fed by rainwater and runoff, the Pond is approximately 600 ft. x 300 ft. with its northwestern edge only several hundred feet from the Bay.

By September of 1996, the affected areas of the pipeline had been replaced, hydrocarbon contaminated soil had been over-excavated, some lost product had been recovered, and the existing water in the Pond had been air sparged. By year 2000 a regular, groundwater monitoring program was finally commenced.

In October of 2006, following 5 years of semi-annual monitoring, MTBE levels at SP-1 and SP-2 (the two monitoring wells at the site with the worst contamination) were still extremely high: 440,000 µg/l and 270,000 µg/l, respectively. In October of 2008, the date of the last monitoring on the basis of data uploaded to GeoTracker, the MTBE levels in these two wells were 170,000 µg/l and 150,000 µg/l., and TPHg levels were as high as 73,000 µg/l and 76,000 µg/l.

On the basis of records and documents reviewed to date, it is apparent that LFR, Inc., the engineering consultant, has conducted no appreciable remediation since 1996 other than the initial response to the hydrocarbon and MTBE release of unknown size. There has apparently been no attempt to determine whether preferential pathways and tidal variations

in groundwater may be pulling contamination into the Bay. No efforts at bioremediation have been initiated, and the most the consultant can say about the extremely high levels of MTBE is that the observed levels of the contaminant are gradually decreasing.

Given the current condition of this area, River Watch believes the following remediation work must be implemented immediately:

1. Complete delineation for the purpose of enabling further remediation work to proceed;
2. Completion of current sensitive receptor survey to outline and prevent threats to offsite surface waters including Selby Pond;
3. Completion of current preferential pathway study to determine whether there are conduits, storm drains, gravel lenses or other avenues by which hydrocarbons and constituents may be migrating offsite and/or into the Bay;
4. Initiation of active remediation work by way of further source removal, bioremediation or other remediation strategies to eliminate any further contamination threat to groundwater and downgradient surface waters;
5. Completion of a current aquifer profile to determine whether the MTBE/TPHg plume has impacted any underlying aquifer in communication with groundwater under the site;
6. Current residual mass calculations which will allow the measurement of remediation progress once removal processes are initiated.

REGULATORY STANDARDS

The Resource Conservation and Recovery Act of 1976 is a federal environmental law of the United States the goals of which are the protection of the public and the environment from harm caused by waste storage and disposal, and to mandate the proper remediation of soil and groundwater contaminated by hazardous waste and hazardous products, including petroleum hydrocarbons and gasoline formula constituents. The Act establishes a national policy that, wherever feasible, the generation of hazardous waste must be reduced or eliminated as expeditiously as possible. It is a strict liability statute with a statute of limitations of five years. Pursuant to the provisions of the RCRA, California has enacted laws and regulations which must be observed in conjunction with RCRA regulations.

California's "Water Quality Objectives" exist to ensure protection of the beneficial uses of water. Several beneficial uses of water exist, and the most stringent water quality objectives for protection of all beneficial uses are selected as the protective water quality

criteria. Alternative cleanup and abatement actions need to be considered which evaluate the feasibility of, at a minimum: (1) cleanup to background levels, (2) cleanup to levels attainable through application of best practicable technology, and (3) cleanup to protective water quality criteria levels. Existing and potential beneficial uses of area groundwater include domestic, agricultural, industrial and municipal water supply.

The Regional Water Quality Control Board has adopted a Water Quality Control Plan (“Basin Plan”) which designates all surface and groundwater within the North Coast and San Francisco Bay regions as capable of supporting domestic water supply. The Board has adopted Maximum Contaminant Levels (“MCLs”) and/or Water Quality Objectives (“WQOs”) for petroleum constituents in surface and groundwater within the region of 50 ppb for TPHg, 1 ppb for benzene, 150 ppb for toluene and 5 ppb for MTBE.

VIOLATIONS

Permits, Standards and Regulations - 42 U.S.C. § 6972(a)(1)(A)

Responsible Parties’ use, storage, handling and transportation of petroleum products at the sites identified in this Notice violated and continues to violate permits, standards, regulations, conditions, requirements and/or prohibitions effective pursuant to the RCRA regarding storage of petroleum in underground storage tanks.

Between March 1, 2006 and March 1, 2011, Responsible Parties have caused or permitted, cause or permit, or threaten to cause or permit, petroleum contaminants, petroleum constituents and other hazardous waste to be discharged or deposited where it is, or probably will be, discharged into waters of the State and now create, or threaten to create, a condition of pollution or nuisance. The discharge and threatened discharge of such petroleum waste is deleterious to the beneficial uses of water, and is creating and threatens to create a condition of pollution and nuisance which will continue unless the discharge and threatened discharge is permanently abated.

Mishandling of Hazardous Waste - RCRA § 3004; 42 U.S.C. § 6924 *et seq.*

Between March 1, 2006 and March 1, 2011, Responsible Parties used, handled, stored and transported petroleum products at the sites identified in this Notice in a manner which has allowed significant quantities of hazardous petroleum constituents to be discharged to soil and groundwater beneath each of the sites and beneath adjacent properties. Contaminant levels of TPHg, TPHd, benzene, toluene, and MTBE in groundwater at the sites are significantly greater than the allowable MCLs and/or WQOs for said constituents.

River Watch alleges that Responsible Parties have, at all times material, engaged in the following activities or failure to act in violation of waste handling provisions mandated in the RCRA:

1. Failure to adequately maintain records of hazardous wastes which were used, handled, treated, stored or otherwise disposed of on or offsite - 42 U.S.C. §6924(a)(1);
2. Failure to satisfactorily monitor, inspect and report - 42 U.S.C. §6924(a)(2);
3. Failure to adequately use, handle, treat, store or properly dispose of hazardous wastes - 42 U.S.C. §6924(a)(3);
4. Failure to adequately locate, design and construct hazardous waste treatment, storage or disposal facilities -42 U.S.C. §6924(a)(4); and,
5. Failure to properly implement contingency plans for effective action to minimize unanticipated damage from the handling, transportation, treatment, storage or disposal of hazardous waste -42 U.S.C. §6924(a)(5).

Information currently available to River Watch indicates these violations have occurred every day over the past 5 years, or on numerous separate occasions, and that they violations are continuing.

Unpermitted Handling, Treatment, Storage, Transportation and/or Disposal of Hazardous Waste - RCRA § 3005; 42 U.S.C. § 6925 *et. seq.*

River Watch alleges that between March 1, 2006 and March 1, 2011 Responsible Parties have engaged in the following activities in violation of the waste handling provisions mandated under the RCRA:

1. Deposition and maintenance of hazardous wastes which has caused and continues to cause the generation and discharge of hazardous waste to the environment;
2. Installation and maintenance of a system of conveyances to dispose of hazardous wastes generated and released from the sites identified in this Notice;
3. Handling, storage, treatment, transportation, and/or disposal of hazardous or solid waste at the sites identified in this Notice without the appropriate regulatory permit; and,

4. Unpermitted handling, storage, treatment, transportation and/or disposal of hazardous waste is in violation of, 42 U.S.C. § 6925.

Information currently available to River Watch indicates these violations have occurred every day over the past 5 years, or on numerous separate occasions, and that they violations are continuing.

Prohibition Against Open Dumping - RCRA § 4005; 42 U.S.C. § 6945 *et. seq.*

River Watch alleges that between March 1, 2006 and March 1, 2011 Responsible Parties have engaged in the following activities, failures or omissions in violation of the waste handling provisions mandated under the RCRA:

1. Open dumping by way of the discharge of hazardous waste to open ground where it will and has contaminated the soils, groundwater and surface waters as described in this Notice;
2. The sites identified in this Notice do not qualify as landfills under 42 U.S.C. § 6944, nor do they qualify as facilities for the disposal of hazardous waste; and,
3. Responsible Parties have no RCRA-authorized permit for the disposal, storage or treatment of solid or hazardous waste of the type currently and historically discharged at the sites identified in this Notice.

Information currently available to River Watch indicates these violations have occurred every day over the past 5 years, or on numerous separate occasions, and that they violations are continuing.

Violation of UST Regulations - RCRA § 9001; 42 U.S.C. § 6991; 42 U.S.C. §6972 (a)(1)(A)

Provisions of the RCRA govern the use and operation of underground storage tanks used for storage of petroleum products (subchapter IX, 42 U.S.C. § 6991 *et seq.*), as well as above ground tanks used for the same purposes. The RCRA UST regulatory program is adopted and implemented in California under the State Underground Storage of Hazardous Substance Account Act (California Health & Safety Code § 25280 *et seq.*).

Between March 1, 2006 and March 1, 2011, Responsible Parties' use and storage of petroleum at the sites identified in this Notice allowed significant quantities of hazardous petroleum constituents to be released or discharged into soil and groundwater in violation of provisions of the RCRA and California UST regulatory programs including, but not limited

to provisions governing general operating requirements for underground storage tanks, release detection and prevention requirements, release reporting and investigation requirements, and release response and corrective action requirements.

Specifically, River Watch contends Responsible Parties are liable for the following statutory violations:

1. Failure to prevent a release, in violation of 40 CFR §§ 280.30, 280.31 and California Health & Safety Code §§ 25292.1(a) - (c), 25292.3(a) and (b);
2. Failure to properly detect and monitor releases, in violation of 40 CFR §§ 280.40 - 280.44 and California Health & Safety Code § 25292;
3. Failure to properly report and keep records of the release, in violation of 40 CFR §§ 280.34, 280.50, 280.52, 280.53, 280.63(b) and California Health & Safety Code §§ 25289, 25293 and 25295(a)(1); and,
4. Failure to take proper corrective action, in violation of 40 CFR §§ 280.53, 280.60 - 280.66 and California Health & Safety Code § 25295(a)(1).

Information currently available to River Watch indicates these violations have occurred every day over the past 5 years, or on numerous separate occasions, and that they violations are continuing.

Imminent and Substantial Endangerment - RCRA § 7002(a)(1)(B); 42 U.S.C. § 6972 (a)(1)(B)

Between March 1, 2006 and March 1, 2011, Responsible Parties used, handled, transported and/or stored petroleum products at the sites identified in this Notice in a manner which has allowed significant quantities of hazardous petroleum constituents to be discharged to soil and groundwater beneath the sites and beneath adjacent properties. The contaminant levels of TPHg, benzene, toluene, and MTBE in groundwater at the sites are significantly greater than the allowable MCLs and/or WQOs for said constituents. Benzene, MTBE, TAME, and TBA are known or suspected carcinogens. Toluene is a reproductive toxin. Ethylbenzene, methanol and xylene are live toxins. All are known to harm both plants and animals. In their concentrations at the sites, these pollutants are creating an imminent and substantial endangerment to public health and the environment.

Information currently available to River Watch indicates these violations have occurred every day over the past 5 years, or on numerous separate occasions, and that they violations are continuing.

The violations alleged in this Notice are knowing and intentional in that Responsible Parties have used, stored and sold petroleum products at the sites which are known to contain hazardous substances, and have intended that such products will be sold to and used by the public. Responsible Parties have known of the contamination at least since the mid-1980's, and have also known that failing to promptly remediate the pollution allows the contamination to migrate through soil and groundwater at and adjacent to the sites, and to continually contaminate and re-contaminate actual and potential sources of drinking water.

Violations of the RCRA of the type alleged in this Notice are a major cause of the continuing decline in water quality and pose a continuing threat to existing and future drinking water supplies of Northern California. With every discharge, groundwater supplies are contaminated. These discharges can and must be controlled in order for the groundwater supply to be returned to a safe source of drinking water.

In addition to the violations set forth above, this Notice is intended to cover all violations of the RCRA by Responsible Parties as evidenced by information which becomes available to River Watch after the date of this Notice.

IDENTITY OF ENTITY BRINGING NOTICE

The entity bringing this Notice of Violations is Northern California River Watch, P.O. Box 817, Sebastopol, CA, 95472, telephone number is (707) 824-4372, referred to throughout this Notice as "River Watch". River Watch is a non-profit corporation, organized under the laws of the State of California, and dedicated to the protection and enhancement of the waters of the State of California including all rivers, creeks, streams and groundwater in Northern California. The violations of Responsible Parties as set forth in this Notice affect the economic stability, physical health and aesthetic enjoyment of members of River Watch who reside and recreate in the affected watershed areas. The members of River Watch use the watersheds for domestic water supply, agricultural water supply, recreation, sports, fishing, swimming, shellfish harvesting, hiking, photography, nature walks and the like. Their health, use and enjoyment of this natural resource are conditions specifically impaired by these violations of the RCRA.

River Watch has retained legal counsel with respect to the issues raised in this Notice. All communications should be addressed to:

Jack Silver, Esquire
Law Office of Jack Silver
P.O. Box 5469
Santa Rosa, CA 95402-5469
Tel. (707) 528-8175
Fax (707) 528-8675

CONCLUSION

The RCRA requires that sixty (60) days prior to the initiation of an action for violation of a permit, standard, regulation, condition, requirement, prohibition or order effective under the RCRA, a private party must give notice of the violation to the alleged violator, the Administrator of the U.S. Environmental Protection Agency and the State in which the violation is alleged to have occurred (42 U.S.C. § 6972(b)(1)(A)). The RCRA also requires that a private party provide ninety (90) days prior notice to the alleged violator, the Administrator of the Environmental Protection Agency and the State in which the violation is alleged to have occurred before initiating an action for an imminent and substantial endangerment to human health or the environment (42 U.S.C. § 6972(b)(2)(A)).

However, if Subtitle C, Subchapter III, violations are alleged such as in this Notice, actions can be brought without observing the 60/90 day notice waiting periods applicable to § 6972(a)(1)(A) and § 6972(a)(1)(B) claims; and, when Subtitle C, Subchapter III, claims are brought in conjunction with claims under § 6972(a)(1)(A) and § 6972(a)(1)(B), none of the claims require a waiting period before a complaint under provisions of the RCRA may be filed.

River Watch believes this Notice sufficiently states grounds for filing suit under the statutory and regulatory provisions of the RCRA as to the sites identified in this Notice. At the close of the notice periods *or substantially earlier*, River Watch intends to file a suit against Responsible Parties for each of the violations as alleged herein. However, River Watch is willing to discuss effective remedies for the violations referenced in this Notice. If you wish to pursue such discussions in the absence of litigation, we would encourage you to initiate such discussions immediately so that we might be on track to resolving the issues raised in this Notice. River Watch will not delay the filing of a lawsuit if discussions have not commenced within a reasonable time following the service of this Notice.

Very truly yours,


Jack Silver

JS:lhmm

cc: Administrator
U.S. Environmental Protection Agency
401 M Street, N.W.
Washington, D.C. 20460

Regional Administrator
U.S. Environmental Protection Agency, Region 9
75 Hawthorne St.
San Francisco, CA 94105

Executive Director
State Water Resources Control Board
P.O. Box 100
Sacramento, California 95812-0100

Executive Director
Calif. Integrated Waste Mgmt. Board
1001 "I" Street
Sacramento, CA 95814

SFPP, L.P.
1140 Canal Blvd.
Richmond, CA 94804

CT Corporation System, Registered Agent
SFPP, L.P.
350 N. St. Paul Street, Suite 2900
Dallas, TX 75201

Corporation Company dba CSC - Lawyers
Incorporating Service, Registered Agent
Kinder Morgan, Inc.
211 E. 7th Street, Suite 520
Austin, TX 78701

CT Corporation System, Registered Agent
Kinder Morgan Energy Partners, L.P.
350 N. St. Paul Street, Suite 2900
Dallas, TX 75201