

LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD

**In the Matter of:
Crimson Pipeline LLC**

**ORDER R4-2019-0099 (Proposed)
SETTLEMENT AGREEMENT AND
STIPULATION FOR ENTRY OF
ADMINISTRATIVE CIVIL LIABILITY
ORDER; ORDER (PROPOSED)**

I. Introduction

1. This Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order (Stipulated Order or Order) is entered into by and between the Assistant Executive Officer of the California Regional Water Quality Control Board, Los Angeles Region (Regional Board), on behalf of the Regional Board Prosecution Team (Prosecution Team), and Crimson Pipeline LLC (Discharger) (collectively known as the Parties) and is presented to the Regional Board, or its delegee, for adoption as an order by settlement, pursuant to Water Code section 13323 and Government Code section 11415.60.

II. Recitals

2. On June 23, 2016, a breached pipeline vault box owned and operated by Crimson Pipeline LLC caused the unauthorized release of approximately 1,075 barrels (45,150 gallons) of crude oil into the Prince Barranca, a water of the state and the United States.
3. The site of the release is located in the foothills north of the City of Ventura within Hall Canyon and slopes towards the southeast. The Prince Barranca is located immediately adjacent to the site along the southeast boundary. The Prince Barranca is a natural earthen-bottom ephemeral creek that leads to a concrete sub-surface storm water culvert that discharges into the Pacific Ocean approximately one- and one-half miles from the creek.
4. The crude oil flowed into the Prince Barranca and was contained approximately 1,850 feet downstream.
5. On June 23, 2016, Regional Board staff received a Cal-OES Hazardous Material Spill Report Control #16-3794 (OES Report) stating a large amount of crude oil had been discharged into a dry creek bed in the City of Ventura.
6. In response to the OES Report, Regional Board staff conducted an inspection at the site. Regional Board staff determined that the Discharger failed to prevent the release of crude oil into the Prince Barranca.

7. Regional Board staff observed crude oil in the dry creek bed during the June 23, 2016 inspection, and within areas of the dry creek bed on subsequent inspections performed on June 29, 2016, August 24, 2016, October 28, 2016, and June 22, 2017. Crude oil puddles, rock and soil staining were found within the site during the inspections.
8. The Discharger was able to recover 24,000 gallons of free oil liquid and at least an additional 18,462 gallons of oil recovered with the removal of dirt, sand, vegetation, etc.
9. Water Code section 13350, subdivision (a) states that "A person who ... (3) causes or permits any oil or any residuary product of petroleum to be deposited in or on any of the waters of the state, except in accordance with waste discharge requirements or other actions or provisions of this division, shall be liable civilly, and remedies may be proposed, in accordance with subdivision (d) or (e)." The unauthorized discharge of 1,075 barrels (45,150 gallons) of crude oil to waters of the state and the United States is a violation subject to administrative civil liabilities pursuant to Water Code section 13350. The Prosecution Team contends the actions discussed herein are a violation of this statute and the Prince Barranca constitutes a water of the state.
10. The Parties have engaged in confidential settlement negotiations and agree to fully settle the violations alleged in this Stipulated Order without administrative or civil litigation and by presenting this Stipulation to the Regional Board, or its delegee, for adoption as an Order by settlement, pursuant to Water Code section 13323 and Government Code section 11415.60.
11. Pursuant to the State Water Resource Control Board's (State Board) 2010 Water Quality Enforcement Policy section VI.B. (Settlement Considerations), the Prosecution Team agreed during settlement negotiations to reduce the administrative civil liability amount contained in the penalty methodology included as Attachment A to this Stipulated Order, hereby incorporated by reference, in consideration of hearing and/or litigation risks.
12. To resolve the violations by consent and without further administrative or civil proceedings, the Parties have agreed to the imposition of an administrative civil liability against the Discharger in the amount of three hundred thirty thousand two hundred eighteen dollars (\$330,218). The Prosecution Team believes that the resolution of the alleged violations is fair and reasonable and fulfills its enforcement objectives, that no further action is warranted concerning the violations alleged herein, and that this Stipulated Order is in the best interest of the public.

III. Stipulations

The Parties stipulate to the following:

13. **Jurisdiction:** The Parties agree that the Regional Board has subject matter jurisdiction over the matters alleged in this action and personal jurisdiction of the Parties to this Stipulation.
14. **Administrative Civil Liability:** The Discharger hereby agrees to the imposition of an administrative civil liability in the amount of **three hundred thirty thousand two hundred eighteen dollars (\$330,218)** to the Regional Board to resolve the violations specifically alleged in this Stipulated Order. No later than 30 days after the Regional Board, or its delegee, signs this Order, the Discharger shall submit a check for **three hundred thirty thousand two hundred eighteen dollars (\$330,218)** made payable to the "Waste Discharge Permit Fund," reference the Order number on page one of this Order, and mail it to:

State Water Resources Control Board Accounting Office
Attn: ACL Payment
P.O. Box 1888
Sacramento, CA 95812-1888

The Discharger shall provide a copy of the check via email to the State Water Resources Control Board, Office of Enforcement (Kailyn.Ellison@waterboards.ca.gov) and the Regional Board (Barbara.Guia@waterboards.ca.gov).

15. **Compliance with Applicable Laws and Regulatory Changes:** The Discharger understands that payment of an administrative civil liability in accordance with the terms of this Stipulated Order and/or compliance with the terms of this Stipulated Order is not a substitute for compliance with applicable laws, and that additional violations of the type alleged may subject it to further enforcement, including additional administrative civil liabilities. Nothing in this Stipulated Order shall excuse the Discharger from meeting any more stringent requirements which may be imposed hereafter by changes in applicable and legally binding legislation or regulations.

16. Party Contacts for Communications Related to Stipulated Order:

For the Regional Board:

Barbara Guia
Water Resources Control Engineer
Los Angeles Regional Water Quality Control Board
320 West 4th Street, Suite 200
Los Angeles, CA 90013
(213) 620-6361
Barbara.Guia@waterboards.ca.gov

For the Discharger:

Valerie R. Jackson
Vice President of Engineering and Regulatory Compliance
Crimson Midstream, LLC
3760 Kilroy Airport Way, Suite #300
Long Beach, CA 90806
(562) 285-4134
VJackson@crimsonpl.com

17. **Attorneys' Fees and Costs:** Except as otherwise provided herein, each Party shall bear all attorneys' fees and costs arising from the Party's own counsel in connection with the matters set forth herein.
18. **Public Notice:** The Discharger understands that this Stipulated Order will be noticed for a 30-day public review and comment period prior to consideration by the Regional Board, or its delegee. If significant new information is received that reasonably affects the propriety of presenting this Stipulated Order to the Regional Board, or its delegee, for adoption, the Assistant Executive Officer may unilaterally declare this Stipulated Order void and decide not to present it to the Regional Board, or its delegee. The Discharger agrees that it may not rescind or otherwise withdraw its approval of this proposed Stipulated Order.
19. **Procedure:** The Parties agree that the procedure that has been adopted for the approval of the settlement by the Parties and review by the public, as reflected in this Order, will be adequate. In the event procedural objections are raised prior to this Stipulated Order becoming effective, the Parties agree to meet and confer concerning any such objections, and may agree to revise or adjust the procedure as necessary or advisable under the circumstances.
20. **No Waiver of Right to Enforce:** The failure of the Prosecution Team or Regional Board to enforce any provision of this Stipulated Order shall in no way be deemed a waiver of such provision, or in any way affect the validity of this Stipulated Order. The failure of the Prosecution Team or Regional Board to enforce any such provision shall not preclude it from later enforcing the same or any other provision of this Stipulated Order. No oral advice, guidance, suggestions, or comments by employees or officials of any Party regarding

matters covered under this Stipulated Order shall be construed to relieve any Party regarding matters covered in this Stipulated Order. The Regional Board reserves all rights to take additional enforcement actions, including without limitation, the issuance of administrative civil liability complaints or orders for violations other than those addressed by this Order.

21. **Effect of Stipulated Order:** Except as expressly provided in this Stipulated Order, nothing in this Stipulated Order is intended nor shall it be construed to preclude the Regional Board or any state agency, department, board or entity or any local agency from exercising its authority under any law, statute, or regulation.
22. **Interpretation:** This Stipulated Order shall not be construed against the party preparing it, but shall be construed as if the Parties jointly prepared it and any uncertainty and ambiguity shall not be interpreted against any one party.
23. **Modification:** This Stipulated Order shall not be modified by any of the Parties by oral representation whether made before or after the execution of this Order. All modifications must be made in writing and approved by the Regional Board or its delegee.
24. **Integration:** This Stipulated Order constitutes the entire agreement between the Parties and may not be amended or supplemented except as provided for in this Stipulated Order.
25. **If Order Does Not Take Effect:** The Discharger's obligations under this Stipulated Order are contingent upon the entry of the Order of the Regional Board as proposed. In the event that this Stipulated Order does not take effect because it is not approved by the Regional Board, or its delegee, or is vacated in whole or in part by the State Board or a court, the Parties acknowledge that the Prosecution Team may proceed to a contested evidentiary hearing before the Regional Board to determine whether to assess an administrative civil liability for the underlying alleged violations, or may continue to pursue settlement. 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 any subsequent administrative or judicial proceeding or hearing and will be fully protected by California Evidence Code sections 1152 and 1154; California Government Code section 11415.60; Rule 408, Federal Rules of Evidence; and any other applicable privilege under federal and/or state law. The Parties also agree to waive any and all objections related to their efforts to settle this matter, including, but not limited to:
 - a. Objections related to prejudice or bias of any of the Regional Board members or their advisors and any other objections to the extent that they are premised in whole or in part on the fact that the Regional Board members or their advisors were exposed to some of the material facts and the Parties settlement positions, and therefore may have formed

impressions or conclusions, prior to conducting any contested evidentiary hearing in this matter; or

- b. Laches or delay or other equitable defenses based on the time period that the Order or decision by settlement may be subject to administrative or judicial review.

26. **Waiver of Hearing:** The Discharger has been informed of the rights provided by Water Code section 13323, subdivision (b), and, if the settlement is adopted by the Regional Board, hereby waives its right to a hearing before the Regional Board prior to the Stipulated Order's adoption. However, should the settlement not be adopted, and should the matter proceed to the Regional Board or State Board for hearing, the Discharger does not waive the right to a hearing before an order is imposed.

27. **Waiver of Right to Petition:** Except in the instance where the settlement is not adopted by the Regional Board, the Discharger hereby waives the right to petition the Regional Board's adoption of the Stipulated Order as written for review by the State Board, and further waives the right, if any, to appeal the same to a California Superior Court and/or any California appellate level court.

28. **Covenant Not to Sue:** The Discharger covenants not to sue or pursue any administrative or civil claim(s) 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 this Stipulation and Order.

29. **Authority to Bind:** Each person executing this Stipulated Order in a representative capacity represents and warrants that they are authorized to execute this Order on behalf of and to bind the entity on whose behalf the Order is executed.

30. **Necessity for Written Approvals:** All approvals and decisions of the Regional Board under the terms of this Stipulated Order shall be communicated to the Discharger in writing. No oral advice, guidance, suggestions, or comments by employees or officials of the Regional Board regarding submissions or notices shall be construed to relieve the Discharger of its obligation to obtain any final written approval required by this Stipulated Order.

31. **No Third Party Beneficiaries:** This Stipulated Order is not intended to confer any rights or obligation 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.

32. **No Admission of Liability:** In settling this matter, the Discharger 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 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 13327 and/or section 13385, subdivision (e).

- 33. Mutual Release and Discharge of Claims:** In consideration for the promises, conditions, and covenants contained herein, each of the parties, for itself on behalf of its heirs, executors, administrators, successors and assigns, hereby irrevocably and unconditionally releases and discharges the other party and its respective agents, officers, directors, shareholders, employees, attorneys, subsidiaries, predecessors, successors and assigns, from any and all claims, liabilities, obligations, promises, causes of actions, actions, suits, costs, expenses, fees (including but not limited to attorneys' fees), damages or demands, of whatsoever kind or character, whether civil, criminal, or administrative, arising from or relating to the violations alleged herein. Each of the Parties understands, acknowledges and agrees that this Stipulated Order may be pleaded and introduced as evidence as a full and complete defense to any claim, demand, action, or cause of action brought by any Party against the other Party related to the subject matter of this Stipulated Order.
- 34. Admissibility:** The Parties understand and agree that the Stipulated Order shall not be admissible by any person, entity, organization, or government agency at any legal proceeding or hearing (including trial or arbitration) for any purpose other than enforcement of the terms of the Stipulated Order by a Party to the Stipulated Order or future enforcement actions as described in paragraph 32 above.
- 35. Severability:** This Stipulated Order is severable; should any provision be found invalid, the remainder shall remain in full force and effect.
- 36. Effective Date:** This Stipulated Order shall be effective and binding on the Parties upon the date the Regional Board, or its delegee, enters the Order incorporating the terms of this Stipulated Order.
- 37. Counterpart Signatures:** This 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.

Stipulated ACLO R4-2019-0099
Crimson Pipeline LLC

IT IS SO STIPULATED.

California Regional Water Quality Control Board, Los Angeles Region Prosecution Team



3/4/20

By:

Hugh Marley
Assistant Executive Officer

Date

Crimson Pipeline LLC



January 30, 2020

By:

Larry Alexander
President

Date

HAVING CONSIDERED THE PARTIES STIPULATIONS, THE LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD FINDS THAT:

1. The foregoing Stipulation is fully incorporated herein and made part of this Order.
2. This is an action to enforce the laws and regulations administered by the Regional Board. The Regional Board finds that issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, sections 21000 et seq.), in accordance with section 15321, subdivision (a)(2), Title 14, of the California Code of Regulations.
3. The Executive Officer of the Regional Board is authorized to refer this matter directly to the Attorney General for enforcement if the Discharger fails to perform any of its obligations under this Order.

Pursuant to Water Code section 13323 and Government Code section 11415.60, **IT IS HEREBY ORDERED** on behalf of the California Regional Water Quality Control Board, Los Angeles Region.

Renee Purdy
Executive Officer
Los Angeles Regional Water Quality Control Board

Date

Attachment A: Specific Factors Considered

**Attachment A – Specific Factors Considered
Settlement Agreement and Stipulated for Entry of
Administrative Civil Liability Order No. R4-2019-0099
Crimson Pipeline LLC
Grove Incident
City of Ventura, Ventura County**

Crimson Pipeline LLC (Discharger) failed to prevent the release of approximately 1,075 barrels (45,150 gallons) of crude oil from a breached 10” pipeline and pipeline vault into the adjacent Prince Barranca (hereinafter referred to as “the Site”). The Site is located in the foothills north of the City of Ventura within Hall Canyon and slopes towards the southeast. The Prince Barranca is located immediately adjacent to the Site along the southeast boundary. The Prince Barranca is a natural earthen-bottom ephemeral creek that leads to a concrete sub-surface storm water culvert that discharges into the Pacific Ocean approximately one and one half miles from the creek. The Prince Barranca is a water of the State and a water of the United States.

On June 23, 2016, Los Angeles Regional Water Quality Control Board (Regional Board) staff received a Cal-OES Hazardous Material Spill Report Control #16-3794 (OES Report) stating a large amount of crude oil had been discharged into a dry creek bed in the City of Ventura. The cause and quantity of the spill was unknown at the time. On June 23, 2016 in response to the OES Report, Regional Board staff conducted an inspection at the Site. Regional Board staff determined that the Discharger failed to prevent the release of crude oil into the Prince Barranca.

Factors required to be considered in determining the amount of civil liability pursuant to California Water Code section 13327 and the State Water Resources Control Board’s Water Quality Enforcement Policy (Enforcement Policy) are discussed for each violation below.

Violation 1: Unauthorized discharge of approximately 1,075 barrels (45,150 gallons) of crude oil to waters of the State and United States.

On June 23, 2016, a breached pipeline vault box caused the discharge of 1,075 (45,150 gallons) of crude oil into the Prince Barranca. The crude oil flowed into the creek until it was contained approximately 1,850 feet downstream. Regional Board staff observed crude oil in the dry creek bed during the June 23, 2016 inspection, and within areas of the dry creek bed on subsequent inspections performed on June 29, 2016, August 24, 2016, October 28, 2016, and June 22, 2017. Crude oil puddles, rock and soil staining were found within the Site during the inspections.

Water Code section 13350, subdivision (a) states that “A person who ... (3) causes or permits any oil or any residuary product of petroleum to be deposited in or on any of the waters of the state, except in accordance with waste discharge requirements or other actions or provisions of this division, shall be liable civilly, and remedies may be proposed, in accordance with subdivision (d) or (e).” The discharge of 1,075 (45,150 gallons) of

crude oil is a violation subject to administrative civil liabilities pursuant to Water Code section 13350.

Below are the steps set forth by the Enforcement Policy for calculating the penalty for this violation.

Step 1. Potential for Harm for Discharge Violations

a. Harm or Potential for Harm to Beneficial Uses: Major

The Harm or Potential Harm to beneficial uses ranges between 0 and 5 based on a determination of whether the harm or potential for harm to beneficial uses is negligible (0) to major (5). The violation poses a Negligible, Minor, Below Moderate, Moderate, Above Moderate or Major threat to beneficial uses. The Potential for Harm for this violation is characterized as Major resulting in a score of 5. The Enforcement Policy defines Major Potential for Harm as a “high threat to beneficial uses (i.e., significant impacts to aquatic life or human health, long term restrictions on beneficial uses (e.g., more than five days), high potential for chronic effects to humans or ecological health).”

The Prince Barranca is located within the Ventura Coastal watershed and is a tributary to the Pacific Ocean. The existing, potential, and intermittent beneficial uses from the Los Angeles Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties for Ventura County Miscellaneous Stream and Coastal Features include area navigation; commercial and sport fishing; warm freshwater habitat; estuarine habitat; marine habitat; wildlife habitat; rare, threatened, or endangered species; migration of aquatic organisms; spawning, reproduction, and/or early development; shellfish harvesting; wetland habitat; water contact recreation; and non-contact water recreation.

The characteristics of the violation present a major threat to beneficial uses because crude oil consists of total petroleum hydrocarbons and often contains substances such as benzene, chromium, iron, mercury, nickel, nitrogen, oxygen, sulfur, toluene, and xylene which when discharged can degrade water quality and impact beneficial uses. Crude oil causes the contamination of receiving water with toxic chemical constituents, the killing of land mammals and aquatic life, and the potential for chronic effects to human health.

The characteristics of the violation present a major threat to beneficial uses because crude oil remnants attach to rocks and soil that may later discharge downstream to receiving waters. The effects of crude oil in receiving waters may include the killing of land mammals and aquatic wildlife as crude oil

may smother some species of fish and coat the feathers and fur of mammals reducing their ability to maintain body temperatures. Humans are also susceptible to exposure through skin contact and inhaling of liquid oil and fumes. Exposure to crude oil has a high potential for chronic effects to human health because it may irritate eyes and the respiratory system, as well as cause dizziness, rapid heart rate and headaches. Skin contact with crude oil may also cause burning and redness.

Furthermore, the California Department of Fish and Wildlife's Office of Spill Prevention and Response (OSPR) issued Incident Progress Reports on the OSPR Cal Spill Watch website on June 24, 27, and 30, 2016 notifying the public to avoid the impacted area and keep pets on leashes. An additional Incident Progress Report, posted on July 30, 2016, indicated that carcasses of seven small mammals, three birds and one snake were collected. Of the eleven carcasses collected, seven were confirmed oiled. In addition, four live oiled birds were found, placed in wildlife recovery facilities and later released on July 29, 2016. Therefore, the Potential for Harm is characterized as **Major** because of the high threat to beneficial uses.

b. The Physical, Chemical, Biological or Thermal Characteristics of the Discharge: Significant

A score between 0 and 4 is assigned based on a determination of the risk and threat of the discharged material. The violation poses either a negligible, minor, moderate, above-moderate or significant risk or threat to potential receptors. A factor of 4 was assigned to this discharge because of **Significant** risk or threat to potential receptors. The Enforcement Policy defines a factor of 4 as the "[d]ischarged material poses a significant risk or threat to potential receptors (i.e., the chemical and/or physical characteristics of the discharged material far exceed risk factors or receptor harm is considered imminent)."

Crude oil spills pose a significant risk or threat to potential ecosystem health because crude oil consists of harmful pollutants such as total petroleum hydrocarbons and often contain substances such as benzene, chromium, iron, mercury, nickel, nitrogen, oxygen, sulfur, toluene, and xylene which are toxic to fish and wildlife through ingestion and inhalation. Fish and wildlife may experience various toxicological effects that include immune and reproduction system issues as well as disrupted organ function. Furthermore, benzene, toluene, and xylene found in crude oil are carcinogenic compounds that can dissolve or deform cell membranes. Cell membranes contain enzymes and transport proteins to cells. Once damaged active membranes may not have the ability to transport proteins leading to cell death. Benzene in particular has the ability to damage cells, cause cellular mutations and cancer by uncontrolled cell growth leading to

wildlife and human deaths.

c. The Susceptibility to Cleanup and Abatement: 0

A score of **0** is appropriate where 50 percent or more of the discharge is susceptible to cleanup or abatement. OSPR reported an approximate 1,075 barrels (45,150 gallons) of crude oil was discharged to the Prince Barranca, with 24,000 gallons of free oil liquid reported recovered by the Discharger. Therefore, a score of 0 is assigned for this violation because more than 50 percent of the discharge was cleaned up.

d. Final Score – “Potential for Harm”: 9

The scores of the three factors are added to provide a Potential for Harm score for each violation. In this case, a final score of 9 was calculated. The total score of 9 is then used in Step 2 below.

Step 2. Assessment 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. Water Code section 13350, subdivision (e) allows the Regional Board to impose an administrative civil liability on either a per-day basis or a per-gallon basis, but not both. The Prosecution Team elects to assess an administrative civil liability on a per-gallon basis because a per-day basis would result in an inappropriately low administrative civil liability given the nature and volume of the discharge.

a. Deviation from Requirement: Major

The Deviation from Requirement reflects the extent to which a violation deviates from the specific requirement that was violated. The violation is characterized as either a Minor, Moderate, or Major deviation from the requirement. In this case, the violation is characterized as a Major Deviation from the Requirement. The Enforcement policy defines a Major Deviation from the Requirement as “[t]he requirement has been rendered ineffective (e.g., discharger disregards the requirement, and/or the requirement is rendered ineffective in its essential functions).”

The Discharger discharged approximately 1,075 barrels (45,150 gallons) of crude oil from a breached 10” pipeline and pipeline vault into the adjacent Prince Barranca. By discharging crude oil into the Prince Barranca, the requirement not to discharge petroleum products to waters of the state without a permit was rendered entirely ineffective in its essential function. Therefore, the violation was characterized as a Major deviation from the

requirement.

b. Per-Gallon Assessment

Where there is a discharge, the Regional Board shall determine an initial liability amount on a per-gallon basis using the Potential for Harm score from Step 1 and the extent of deviation from requirements. Using a Potential for Harm score of 9 from Step 2 and a Major deviation from requirement; Table 1 of the Enforcement Policy prescribes 0.8 as the per gallon factor for the discharge.

The Regional Board shall apply the above gallon factor to the maximum per gallon amounts allowed under statute for the violation in calculating the initial liability. Water Code section 13350, subdivision (e)(2) allows for imposition of an administrative civil liability on a per gallon basis not to exceed \$10 for each gallon discharged. In this case, 1,075 barrels (45,150 gallons) of crude oil were discharged to the Prince Barranca. Therefore, 45,150 gallons discharged to the Site were assessed a per gallon basis amount of \$10.00.

Per Gallon Assessment = \$10.00 (statutory maximum) X 0.8 (per gallon factor) X 45,150 gallons = \$361,200

Step 3. Per Day Assessment for Non-Discharge Violations

Not applicable (discharge violation alleged).

Step 4. Adjustment Factors

Additional factors are considered and can modify the amount of initial liability: Culpability, Cleanup and Cooperation and History of Violations.

a. Culpability: 1.1

The culpability multiplier ranges between 0.5 and 1.5, with a lower multiplier for accidental incidents, and a higher multiplier for intentional or negligent behavior.

A multiplier of 1.1 is assigned for this violation because the Discharger failed to prevent the unauthorized release of 1,075 barrels (45,150 gallons) of crude oil from a pipeline vault box and breached 10" pipeline into the adjacent Prince Barranca. The unauthorized release occurred when the Discharger's contractor, whom it had previously worked with without incident, was replacing old valve equipment as part of preventative maintenance and repairs. The Discharger had personnel onsite observing the pipeline when it was reactivated; however, such personnel was

inspecting a different vault box when the unauthorized release occurred.

In the Discharger's August 12, 2016 Preliminary Geotechnical Report, the Discharger stated that the release resulted in crude oil spilling from the valve box onto Mariano Ranch Property, a private property. The crude oil drained down slope to a culvert that serves as a drainage outlet for runoff under Hall Canyon Road. The crude oil traveled through the culvert outlet, flowed downslope from the east side of Hall Canyon Road and entered the Prince Barranca. The flow of crude oil traveled approximately 2,400 feet downstream from the source of the leak to 500 feet upstream of the start of the man-made concrete channel culvert.

During the June 23, 2016 inspection, Regional Board staff observed large amounts of crude oil puddled throughout the creek. Crude Oil was also observed on rocks, the soil surface, and the grassy surface downstream of the pipeline vault box leading to the culvert during the June 23 and 29, 2016 inspections.

A reasonable and prudent person who owns and maintains unrefined crude oil pipelines, would have additional oversight and accountability measures in place to prevent an unauthorized discharge of crude oil.

b. Cleanup and Cooperation: 1.0

This is the extent to which the discharger voluntarily cooperated in returning to compliance and correcting environmental damage. The multiplier for this factor ranges between 0.75 to 1.5, with a lower multiplier where there is a high degree of cleanup and cooperation, and a higher multiplier where this is absent.

The Discharger took steps to clean up the Site after the June 23, 2016 incident. Initial emergency response efforts were overseen by Unified Command that included OSPR and the Discharger. During the June 23, 2016 inspection, Regional Board staff observed a vacuum truck pumping pooled crude oil from the creek and a standby vacuum truck and lines in the downstream channel that lead to the Pacific Ocean to capture crude oil. During the June 29, 2016 inspection, Regional Board staff observed containment dams constructed within the drainage area of the creek to prevent further discharge downstream. Culvert flushing to remove oil and removed crude-oil containing soil was also observed at the time of the inspection.

The Discharger's Stormwater Surface Water Sampling and Analyses Plan Revision 1, dated October 2016 states that approximately 24,000 gallons of free oil measured as liquid have been recovered by emergency spill

response crews using vacuum trucks, and that approximately 1,200 cubic yards of crude-oil containing soil and sediment have been manually removed from the shallow surface of the dry creek bed using hand tools for off-site/recycling. The Discharger also conducted field inspections and surface water sampling throughout the 2016-2017 and 2017-2018 rain seasons. Field inspection consisted of observing for visible oil sheen in water flowing in the creek or in standing water.

The Discharger began restoration activities of the Site. During the June 22, 2017 inspection, Regional Board staff observed re-vegetation on slopes adjacent to the creek and throughout the spill site. Soil and rock fill placement were observed throughout the creek and a newly constructed concrete channel was also observed downstream of the pipeline vault box.

Unified Command also provided incident status reports to the Regional Board for the dates of August 25, September 1, 30, and October 7, 2016 of the ongoing cleanup, remediation and restoration of the creek. The incident status reports provided information of meetings held with impacted property owners on August 3, 10, 17, 25, 31, September 21, and October 5, 2016 to address resident concerns and provide updates.

The Site was affected by the Thomas Fire that began on December 4, 2017 and was fully contained on January 12, 2018. The Discharger's Annual Revegetation, Monitoring Report and Thomas Fire Damage Assessment report, dated February 2018 states that substantial portions of the Site were burned and that much of the revegetation areas and adjacent vegetated slopes were moderately to severely burned on or around December 5, 2018.

Although, cleanup and restoration efforts took place after the incident, some areas of the creek remain stained with crude. The Discharger's Grove Incident Site Limited Soil Assessment Activities report dated December 2016, states that Microblaze, a bioremediation agent, was applied to the surface of affected areas upon completion of soil removal activities in an effort to provide remediation of soil where crude oil was left in place. In the June 22, 2017 inspection report, crude oil staining was still found on soil and rocks in the noted exclusion zone and areas of the creek.

The Discharge has conducted, and continues to conduct, cleanup efforts expected of dischargers in similar situations. Therefore, a multiplier of 1.0 was selected.

c. History of Violations: 1.0

The Permittee does not have a history of violations known to the Regional

Board. Therefore, a multiplier of 1.0 was selected.

Step 5. Total Base Liability: \$397,320

\$361,200 (Total Initial Liability) X 1.1 (culpability) X 1.0 (cleanup and cooperation) X 1.0 (history of violations) = \$397,320

Step 6. Ability to Pay

The Enforcement Policy provides that if the Regional Board has sufficient financial information necessary to assess the violators' ability to pay the Total Base Liability or to assess the effect of the Total Base Liability on the violators' ability to continue in business, then the Total Base Liability may be adjusted.

In this case, the Prosecution Team has sufficient information to suggest the Discharger has the ability to pay the proposed liability. Crimson Pipeline, LLC is a large oil company with millions of dollars in annual revenue. The recommended penalty will not have an effect on Crimson Pipeline, LLC's ability to continue in business. Crimson Pipeline, LLC has not presented any information regarding its inability to pay.

Step 7. Other Factors as Justice May Require

a. Staff Cost: \$15,453

The Enforcement Policy states (p.19) that the costs of investigation and enforcement can be considered under other factors as justice may require. To date, the Regional Board has incurred \$15,453 in staff costs associated with the investigation and enforcement of the violations. This represents 109 hours of staff time expended on the inspections, the inspection reports, and preparing the enforcement documents. The amount was calculated using each staff person's hourly rate plus benefits and overhead. No attorneys' fees were included in this calculation. The Prosecution Team finds it is appropriate to increase the Total Base Liability amount by \$15,453 in consideration of investigation and enforcement costs incurred in prosecuting this matter. Increasing the Total Base Liability amount in this manner serves to create a more appropriate deterrent against future violations.

Step 8. Economic Benefit:

The Enforcement Policy (p. 21) states that the economic benefit shall be estimated for every violation. "Economic benefit is any savings or monetary gain derived from the act or omission that constitutes the violation." The

Prosecution Team believes the costs associated with inspecting and replacing the valve where the spill occurred, and therefore economic benefit, is negligible.

Step 9. Maximum and Minimum Liability Amounts

The Enforcement Policy directs the Regional Board to consider maximum and minimum liability amounts set forth in the applicable statutes.

a. Maximum Liability Amount:

Pursuant to Water Code section 13350, subdivision (e)(2), the per-gallon statutory maximum administrative civil liability for the violation is \$10 for each gallon of waste discharged. The statutory maximum for the violation is $(\$10/\text{gallon of violation} \times (45,150 \text{ gallons})) = \$451,500$. The Final Liability Amount is within the statutory maximum.

b. Minimum Liability Amount:

The Enforcement Policy requires the Regional Board to recover, at a minimum, 10% more than the economic benefit. Because the economic benefit is negligible, so is the minimum liability amount.

Step 10. Final Liability Amount: \$412,773

The Final Liability Amount consists of the amount for the violation, provided the amount is within the statutory minimum and maximum amounts. The final liability amount calculation for the violation is \$412,773, which is within the statutory minimum and maximum amounts.