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17 **BP PIPELINES (NORTH AMERICA) INC.**

18 **STATE OF CALIFORNIA**
19 **WATER RESOURCES CONTROL BOARD**

20 In the Matter of Los Angeles Regional Water
21 Quality Control Board 13267 Order – Dominguez
22 Channel 400 Feet South of Carson Street, Carson,
23 California; The Petition of

24 **SWRCB FILE NO.** _____

25 **BP PIPELINES (NORTH AMERICA) INC.,**

26 **PETITION FOR REVIEW AND REQUEST**
27 **FOR HEARING; REQUEST FOR STAY**

28 **Petitioner**

INTRODUCTION

Pursuant to California Water Code section 13320 and California Code of Regulations (“CCR”) Title 23, sections 2050 *et seq.*, BP Pipelines (North America) Inc. (“Petitioner”) respectfully petitions the State Water Resources Control Board (“State Board”) for review of a Water Code section 13267 Order (the “Order”) dated April 26, 2011 and issued to Petitioner by the Executive Officer of the Los Angeles Regional Water Quality Control Board (“Regional Board”).

1 with regard to an investigation pertaining to a segment of the Dominguez Channel (“Channel”) in
2 Carson, California. Light non-aqueous phase liquids (“LNAPL”) have been observed within the
3 Channel 400 feet south of Carson Street. A copy of the Order is attached hereto as Exhibit 1.

4 **1. NAME AND ADDRESS OF PETITIONER**

5 Petitioner may be contacted through its counsel of record: Viviana L. Heger, Tropio &
6 Morlan, 21700 Oxnard Street, Los Angeles, California 91367 and Deborah P. Felt, BP America Inc.
7 – Legal, 6 Centerpointe Drive, 5th Floor, La Palma, California 90623.

8 **2. THE ACTION OR INACTION FOR WHICH PETITIONER SEEKS REVIEW**

9 This petition for review concerns the issuance of the Regional Board’s Order, entitled
10 “Requirement for Technical Report – Pursuant to California Water Code Section 13267 Order,”
11 dated April 26, 2011. Petitioner was named in the Order solely because it has pipelines in the
12 vicinity of the segment of the Channel at issue in the Order. As explained further in the Points and
13 Authorities attached hereto, Petitioner has not discharged any waste or contributed in any manner to
14 the LNAPL that has been observed within a segment of the Channel south of Carson Street.

15 The Order states that primarily refined (gasoline-range) petroleum products are entering the
16 Channel from (i) the bottom of the Channel and (ii) horizontal, perforated sub-drain pipe systems
17 installed within both the west and east channel levees.

18 The Channel is owned by the Los Angeles County Department of Public Works and operated
19 by the Los Angeles County Flood Control District, which is subject to a May 17, 2011 Clean-up and
20 Abatement Order (“CAO”) to prepare a work plan for initial extraction of the LNAPL and for
21 investigation of the LNAPL. (*See* CAO Case No. 1528; File No. 11-061.)

22 The Order identifies various current or former operations near the segment of the Channel at
23 issue. Petitioner’s pipelines identified in the Order have been used to transport crude oil or natural
24 gas.

25 During a May 13, 2011 meeting, the Regional Board provided a map of the segment of the
26 Channel at issue, which showed, among other things, that Plains All American, L.P. (“Plains”) owns
27 or operates pipeline(s) crossing the segment of the Channel at issue. A copy of the map distributed
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1 by the Regional Board is attached hereto as Exhibit 2. The Plains pipeline(s), like Petitioner's, are or
2 were used for crude oil transport. It is Petitioner's understanding that the Board did not identify
3 Plains in the Order because its pipeline(s), like Petitioner's, have been or continue to be in crude oil
4 service. (See Declaration of Donna M. DiRocco submitted concurrently with this petition at ¶8.)

5 **3. DATE THE REGIONAL BOARD ACTED OR FAILED TO ACT**

6 The date of the Regional Board's action that is subject to review is April 26, 2011, when the
7 Order was signed by the Executive Officer of the Regional Board. Petitioner first received a copy of
8 the Order, via electronic mail, on April 26, 2011.

9 **4. STATEMENT OF REASONS THE ACTION IS INAPPROPRIATE AND IMPROPER**

10 The issuance of the Order was beyond the authority of the Regional Board, inappropriate,
11 improper, or not supported by the record, for the following reasons:

12 a) The Order is unreasonable in that it seeks to impose burdensome and
13 unreasonable obligations, including, without limitation, investigation and studies which are not
14 authorized under the Water Code. Water Code Section 13267(b)(1) allows the Regional Board to
15 issue a Water Code 13267 order to "any person who has discharged, discharges, or is suspected of
16 having discharged or discharging, or who proposes to discharge waste within its region." Petitioner
17 has not discharged and is not suspected of having discharged waste near the segment of the Channel
18 at issue. Water Code Section 13267 does not authorize the Board to order Petitioner's response
19 simply by virtue of its operation of pipelines nearby, especially where, as here, the pipelines are
20 carrying, or carried, products that are inconsistent with the LNAPL reported to be impacting the
21 Channel.

22 The obligations under the Order are further unreasonable because they are not supported by, or are
23 inconsistent with, substantial evidence in the record. The Regional Board acted improperly by
24 failing to cite evidence that justifies requiring Petitioner to perform the work requested in the Order.
25 The Order provides no evidence because there is none. Petitioner is not a discharger or suspected
26 discharger subject to the requirements of Water Code section 13267. There is no connection
27 between the LNAPL detected within a segment of the Channel *south* of Carson Street and
28 Petitioner's pipelines *north* of Carson Street. There is no connection between the LNAPL within the

1 Channel and Petitioner's pipelines associated with crude oil or natural gas, neither of which is
2 characteristic of the nature of the contaminants emerging upon the Channel. Consistent with its
3 decision not to name Plains in the Order, the Regional Board should dismiss Petitioner from the
4 Order because Petitioner's pipelines, like Plains', were at all relevant times used to transport crude
5 oil or natural gas.

6 b) The burden, including costs, of the directives set forth in the Order, including
7 without limitation, additional data, information and reports, do not bear a reasonable relationship to
8 the need for said data, information and/or reports, or the benefits to be obtained therefrom, and,
9 therefore, are contrary to California Water Code section 13267(b)(1). The burden, costs, and
10 directives set forth in the Order are largely, if not entirely, duplicative of other Regional Board
11 directives. In particular, of the various sites identified in the Order, eight are the subject of
12 Underground Storage Tank ("UST") or Site Clean-up Program ("SCP") investigations, which by
13 nature involve subsurface monitoring and evaluations. Further, the CAO issued just 9 days ago
14 orders the operator of the Channel to not only remove the LNAPL encountered but also, among
15 other things, to "propose techniques to evaluate whether the subdrains are providing a conduit for
16 LNAPL. . . ; a technique to determine the lateral extent of the LNAPL; [and] a technique to
17 determine the extent of soil, groundwater, and soil vapor impact from LNAPL[.]" In light of the
18 existing and future data requested by the Regional Board, the Order's directives to Petitioner are
19 unreasonably duplicative. Further, many of the items that the Regional Board seeks have or will be
20 completed in conjunction with the eight on-going UST or SCP investigations and the CAO. The
21 subsurface areas beneath the segment of the Channel at issue have been or will be sampled by other
22 entities, and the additional costs of further sampling should be borne by the entities currently
23 undertaking remediation and assessment activities.

24 c) The Order is vague and ambiguous, including without limitation, its failure to
25 provide legally sufficient grounds for requiring Petitioner to engage in additional investigation
26 activities, complete and submit additional data, information and/or reports. The Order is
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1 broad and unnecessarily burdensome to the extent it is interpreted to require Petitioner to do
2 anything more than provide existing information concerning the location and operation of its natural
3 gas and crude oil pipeline.

4 d) The Order is further unreasonable in that the Regional Board has failed to
5 provide Petitioner with a meaningful opportunity to address or refute the Order's alleged findings
6 and directives with existing information and data. As such, Petitioner has been denied its rights to
7 procedural due process, resulting in substantial harm through the imposition of unjustified and
8 inappropriate regulation requirements, costs, and potential for imposition of civil liability penalties
9 for failure to comply with the Order.

10 **5. PETITIONER IS AGGRIEVED**

11 Petitioner is aggrieved for the reasons set forth in section 4, above. Petitioner is
12 potentially subject to substantial regulatory requirements pursuant to an Order that is contrary to law
13 and that relates to releases of refined petroleum products, which others, rather than Petitioner,
14 handled. Even if such costs were authorized, which they are not, they are largely duplicative of
15 existing studies and not tailored in a manner that will provide any benefit to regional water quality,
16 the environment or human health.

17 **6. PETITIONER'S REQUEST TO THE STATE BOARD**

18 Petitioner requests that the Order be vacated or amended to remove Petitioner as
19 among the responsible parties required to comply with its requirements.

20 Alternatively, Petitioner seeks a determination from the State Board that the Regional
21 Board's issuance of the Order, in part, was inappropriate and improper and should be modified so
22 that:

- 23 (i) the entities currently subject to the CAO and the UST or SCP cases be
24 designated as the primary responsible parties responsible for complying with
25 the Order at their sole cost;
- 26 (ii) Petitioner may fully satisfy the terms of the Order by completing its
27 reasonable search for records demonstrating that Petitioner's pipelines were
28 used to transport natural gas or crude oil;

- 1 (iii) the deadlines under the Order be extended by at least 60 days with an option
2 for any aggrieved party to seek additional time; and
3 (iv) any obligation for Petitioner to sample subsurface conditions in the vicinity of
4 the segment of the Channel at issue be eliminated as they have been or will be
5 sampled in conjunction with the CAO or ongoing UST and SCP cases.

6 In addition, Petitioner respectfully requests the Board to issue a stay in this matter so
7 that the status quo may be maintained until such time as the State Board has the opportunity to rule
8 on this matter.

9 **7. STATEMENT OF POINTS & AUTHORITIES**

10 Petitioner's statement of points and authorities is attached.

11 **8. STATEMENT OF TRANSMITTAL OF PETITION TO THE REGIONAL BOARD**

12 A true and correct copy of this petition for review was transmitted to Samuel Unger,
13 Executive Officer of the Los Angeles Regional Board, on May 26, 2011.

14 **9. SUBSTANTIVE ISSUES RAISED BEFORE THE REGIONAL BOARD**

15 Petitioner has not yet been afforded a meaningful opportunity to be heard on the
16 substantive issues set forth in the Order. Petitioner diligently responded to requests from the
17 Regional Board following issuance of the Order and informed the Regional Board in a May 6, 2011
18 letter of arguments it intends to make in this petition. (See DiRocco Decl., ¶ 9-15.) A copy of
19 Petitioner's May 6, 2011 letter to the Board and post-Order communications are attached hereto as
20 Exhibit 3. Pending efforts to resolve disputed issues with Regional Board staff, Petitioner may be
21 without an adequate remedy unless the State Board grants this petition for review and a hearing with
22 respect to the issues presented here.

23 **10. REQUEST FOR HEARING**

24 In connection with any hearing in this matter, Petitioner reserves the right to present
25 additional evidence or testimony to the State Board and will submit to the State Board, if
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1 appropriate, statements regarding evidence pursuant to Code of California Regulations, Title 23,
2 section 2050(b).

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4 DATED: May __, 2011

VIVIANA L. HEGER
TROIPO & MORLAN

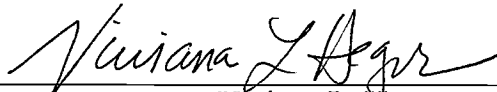
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Viviana L. Heger

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION AND SUMMARY**

3 This petition concerns the Regional Board’s April 26, 2011 Order, entitled “Requirement for
4 Technical Report – Pursuant to California Water Code Section 13267 Order” (“Order”). The Order
5 directs Petitioner to prepare a detailed work plan to investigate the origin and extent of primarily
6 refined (gasoline-range) petroleum products that are entering the Dominguez Channel (“Channel”).
7 (See Exh. 1.) Petitioner – just like Plains All American, another pipeline company – does not, and
8 has not, handled refined petroleum products in the vicinity of the segment of the Channel at issue in
9 the Order. Plains is not named in the Order because it cannot be a source of refined petroleum
10 products. For the same reason, Petitioner should be dismissed from the Order because its pipelines,
11 like Plains, cannot be the source of LNAPL that is reported to be impacting the Channel.

12 The Order is unreasonable because it is not authorized under Water Code section 13267.
13 Petitioner has not discharged any waste or contributed in any manner to the LNAPL that has been
14 observed within a segment of the Channel south of Carson Street. Instead, as the Regional Board
15 noted in the Order, two releases of refined product have occurred near the segment of the Channel
16 being investigated. As explained further below, these releases occurred from service station sites
17 immediately adjacent or in close proximity to the segment of the Channel at issue in the Order.

18 The Order cites no evidence (because there is none) that Petitioner discharged any refined
19 petroleum products or operated pipelines from which such products could be discharged. The
20 Regional Board acted improperly by failing to identify and cite evidence that justifies requiring
21 Petitioner to perform the work requested in the Order.

22 The Order is contrary to Water Code section 13267 because the burden of the directives does
23 not bear a reasonable relationship to the need for said data, information and/or reports, or the
24 benefits to be obtained therefrom. The subsurface areas beneath the segment of the Channel at issue
25 have been or will be sampled by other entities, and the additional costs of further sampling should be
26 borne by the entities currently undertaking remediation and assessment activities, not by Petitioner.

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1 The scope of the Order is unnecessarily broad and burdensome to the extent it requires
2 Petitioner to do anything more than provide existing information related to the operation of its
3 nearby pipelines.

4 Petitioner has not had a meaningful opportunity to address or refute the Order's alleged
5 findings and directives and could face substantial harm through the potential for imposition of civil
6 liability penalties for failure to comply with the Order.

7 For these reasons, which are more fully discussed below, Petitioner requests that the Order be
8 vacated as to Petitioner or, alternatively, be modified (a) to make the parties subject to existing
9 remediation and assessment orders the primary responsible parties to comply with the Order; (b) to
10 confirm that Petitioner's obligations may be satisfied by providing to the Regional Board existing
11 data that has not already been provided, (c) to extend the deadlines under the Order by at least 60
12 days, and (d) to confirm that Petitioner shall not be required to sample the subsurface of the Channel
13 under the Order. Petitioner further requests that the Order be stayed pending the State Board's review
14 of this Petition.

15 **II. BACKGROUND**

16 Light non-aqueous phase liquids ("LNAPL") are entering a segment of the Channel south of
17 Carson Street from (i) the bottom of the Channel and (ii) horizontal, perforated sub-drain pipe
18 systems installed within both the west and east channel levees.

19 The Channel is owned by the Los Angeles County Department of Public Works and operated
20 by the Los Angeles County Flood Control District, which is subject to a May 17, 2011 Clean-up and
21 Abatement Order ("CAO") to prepare a work plan for initial extraction of the LNAPL and for
22 investigation of the LNAPL. (*See* CAO Case No. 1528; File No. 11-061.)

23 **A. Numerous Responsible Entities Have Been Identified**

24 The Order identifies various current or former operations near the segment of the Channel at
25 issue. The Order lists entities associated with these operations and reflects whether the locations are
26 within the Board's Underground Storage Tank ("UST") program or Site Clean-up Program ("SCP");
27 as follows:

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	Site	Location	Entity	Program
1.	Former Active RV	Adjacent to the area where LNAPL has been detected	Prowell Family Trust	SCP 1110A
2.	Former Humble Oil Service Station	Adjacent to the area where LNAPL has been detected	Prowell Family Trust	SCP 1110B
3.	Former Texaco Service Station, 1209 E. Carson Street	North of Active RV	Chevron	UST R-05994
4.	Former Carson Air Harbor site/facility	North of Humble Oil site	Shell Oil Company	SCP 0490C
5.	Former Union Pipeline within Perry Street	Beneath Active RV	Chevron and Crimson Pipeline	
6.	Pipelines within Perry Street	Beneath Active RV and Channel	Shell	SCP 0490A SCP 0490 B
7.	Tesoro Pipeline 0366	Adjacent to west side of Channel	Tesoro	
8.	Inactive Shell Pipeline 0367	Unclear from Order	Shell	
	Shell Pipeline Corridor	400 feet west of Interstate 405 and E. Carson Street		
10.	76 Service Station, 1025 E. Carson Street	North of Carson Street	ConocoPhillips	UST I-02903
11.	Shell Carson Terminal, 20945 Wilmington Av	North of Carson Street	Shell	SCP 0229B
12.	BP Pipelines	North of Carson Street North of Carson Street beneath Channel Within Recreation Road	BP Pipelines (North America) Inc	

The BP pipelines identified in the Order have been used to transport crude oil or natural gas exclusively, based on investigations Petitioner has undertaken since the Order was issued.

During a May 13, 2011 meeting, the Regional Board provided a map of the segment of the Channel at issue, which showed that in addition to the above operations, Plains All American, L.P. (“Plains”) owns or operates pipeline(s) crossing the segment of the Channel at issue. The Plains pipeline(s), like Petitioner’s, are or were used for crude oil transport. It is Petitioner’s understanding that the Board did not identify Plains in the Order because its pipeline(s), like Petitioner’s, have been

1 or continue to be in crude oil service. (See Exh. 2 and Declaration of Donna M. DiRocco submitted
2 concurrently with this petition.)

3 **B. Evidence of LNAPL Releases Near Channel**

4 Although the Order cites no evidence that is adequate to support naming Petitioner, it
5 contains significant information regarding the eight on-going UST and SCP sites. Two are
6 specifically described in the Order as known sources of refined petroleum products.

7 **1. 76 Service Station**

8 First, the Order refers to a 76 Service Station, located at 1025 E. Carson Street, as a potential
9 source of free product. This site is being remediated by ConocoPhillips Company under the UST
10 clean-up program (UST Case No. I - 02903). The site is or was equipped with underground storage
11 tanks. The table on the last page of the Order states:

12 Historically, free product (up to 1.28 feet) was identified beneath the site since
13 July 1992. Groundwater samples collected detected TPHg up to 640,000 µg/L,
benzene up to 37,000 µg/L, and TBA up to 76,000 µg/L.

14 **2. Service Station**

15 Second, the Order also refers to a former Texaco service station, located at 1209 E. Carson
16 Street, as another potential source of refined petroleum product. This site is being remediated by
17 Chevron Environmental Management Corporation under the UST clean-up program (UST Case No.
18 R - 05994). The site was equipped with USTs and is described on the last page of the Order as
19 follows:

20 Historically, a petroleum sheen has been detected at the site since March 2004.
21 LNAPL (0.03 foot) was identified in June 2010. Groundwater samples collected
22 beneath the site detected TPHg up to 370,000 µg/L, TPHd up to 120,000 µg/L
benzene up to 14,000 µg/L, MTBE up to 41 µg/L, and TBA up to 54 µg/L.

23 **C. Petitioner's Cooperation and Compliance With Regional Board Requests**

24 Petitioner has been diligent in its attempts to cooperate with the Regional Board and comply
25 with the terms of the Order. (See DiRocco Decl., ¶ 9-15.) In response to the April 26, 2011 Order,
26 Petitioner immediately undertook a diligent investigation of internal records dating as far back as
27 1963 to identify the origin, extent, and use of pipelines located near the segment of the Channel
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1 impacted by LNAPL. Petitioner's investigations identified thorough and consistent information
 2 about three pipelines, as follows:

No(s).	BP Lines	Dates of Operation		Other Information
		Start	End	
211	12" for Crude	1983	2000	Exclusively in natural gas or crude service; Inline inspection during the 2007-09 interval
	12" for Natural Gas	2000 2009	2007 Current	
1 (aka 266)	10" for Crude	1925	1994	Exclusively crude
6 (aka 266)	8" for Crude	1928	1963 - one piece abandoned in place 1999 - remainder sold to Plains	Exclusively crude.

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 12 None of these pipelines handled refined petroleum products, which are the primary source of the
 13 LNAPL reported to be impacting the Channel. Also, none of these pipelines are located within the
 14 segment of the Channel south of Carson Street where LNAPL has been observed. Rather, each of
 15 these lines crosses the channel north of Carson Street and runs parallel to the Channel south of
 16 Carson Street.

17 As requested in the Order, Petitioner conveyed information related to its pipelines to the
 18 Regional Board in a May 6, 2011 letter. (See Exh. 3) That letter explained, among other things, that
 19 Petitioner is not a contributor of LNAPL because it did not carry gasoline or diesel and that other
 20 known sources of LNAPL are present in the area.

21 To further address Regional Board inquiries, Petitioner remained in communication with the
 22 Board via email in early May 2011 and responded to board inquiries related to specific pipelines.
 23 Petitioner and the Regional Board's email communications were primarily regarding an isolated
 24 reference on an old Western Oil and Gas Association map ("WOGA"), apparently reflecting a
 25 refined product pipeline known as "R-266." The "R" designation in "R-266" refers to pipelines
 26 operated by Petitioner's predecessor, Richfield Oil Corporation. The WOGA map includes charts
 27 with numerous rows and columns and hand written notations to denote the number and types of lines
 28 apparently depicted on the map. In one segment of a multi-row and column chart, a "1" is marked

1 under the column labeled "Oil Line-8" and another "1" is marked under the column labeled "Oil
2 Line-10". This information correctly reflects BP Lines 1 and 6, above. However, another segment
3 of the WOGA chart shows a third line; on the chart, a "1" is marked under the column labeled
4 "Refined Products Lines - 8" on the row associated with R-266. This information is directly at
5 odds with all records Petitioner has reviewed because Petitioner's records reflect the operation of
6 only two lines, both in crude oil service. Nonetheless, the Regional Board considers this reference to
7 refined products as substantial evidence to support the Order.

8 Petitioner has disputed this isolated reference on the WOGA map. The reference is contrary
9 to all information identified in Petitioner's internal investigation and, therefore, appears entirely
10 unreliable and not credible. The reference to an eight-inch refined product line on the WOGA map
11 must be an error because Petitioner never operated three lines. Further, Petitioner could not have
12 used its eight-inch crude line to transport refined product. Industry practice does not allow an
13 operator to "flip flop" the use of a crude line to refined product line because to do so contaminates
14 the refined product. Thus, the WOGA map's reference to an eight-inch refined product line is not
15 substantiated in either records or industry practice.

16 Petitioner further explained that an old abandoned section of Line 6 crossed the Dominguez
17 Channel and was abandoned before 1964. The abandoned segment was decommissioned properly in
18 place in accordance with procedures required at that time. Given the year of decommissioning, this
19 segment cannot be a likely source of any LNAPL materials decades later. That segment was located
20 further north than the locations of Lines 211 and 1, according to recent internal investigations.

21 The Regional Board has apparently disregarded Petitioner's investigations. In a May 23,
22 2011 letter, the Regional Board continues to assert that Petitioner's lines may have been used for
23 other products, apparently relying on the single hand-written reference on the WOGA map that is
24 contrary to operator records and industry practice. The Board seeks to enforce the terms of the
25 Order without any modifications to address the lack of a factual or legal basis to name Petitioner.
26 (See DiRocco Decl. ¶ 9-15.)

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1 **III. ARGUMENT**

2 **A. The Order Must Be Vacated or Amended So That Petitioner Is Not Identified As**
3 **A Potential Discharger**

4 The Order was issued under the authority of Water Code Section 13267. (Exh. 1, Order at 1.)

5 However, Section 13267 only authorizes orders to be issued against persons who have discharged or
6 who threaten to discharge waste. It provides, in part:

7 (b)(1) In conducting an investigation specified in subdivision (a), the regional board may
8 require that any person *who has discharged, discharges, or is suspected of having*
9 *discharged or discharging, or who proposes to discharge waste* within its region, or any
10 citizen or domiciliary, or political agency or entity of this state who has discharged,
11 discharges, or is suspected of having discharged or discharging, or who proposes to
12 discharge, waste outside of its region that could affect the quality of waters within its region
13 shall furnish, under penalty of perjury, technical or monitoring program reports which the
14 regional board requires. Water Code § 13267(b)(1) (emphasis added).

15 The first requirement by law is that the Regional Board identify a person who qualifies as a
16 discharger or a suspected discharger. This is the first issue the State Board looks at when reviewing
17 petitions under Water Code section 13267. *In re Pacific Lumber Company & Scotia Pacific Co.*
18 LLC, SWRCB/OCC File A-1380 at 10 (Order WQ 2001-14) (“In reviewing a water quality
19 monitoring and reporting order entered by a Regional Water Quality Control Board pursuant to
20 section 13267, the SWRCB first must determine if the party to whom the monitoring order is
21 directed has discharged, is discharging, is suspected of discharging, or proposes to discharge
22 waste.”) The State Water Resources Control Board has vacated section 13267 orders issued to
23 persons where there was not “substantial evidence” in the record meeting the discharger
24 requirement. *E.g., In re Chevron Products Co.*, SWRCB/OCC File A-1343, at 2 (Order WQ 2004-
25 0005). There is no evidence that Petitioner discharged any contaminants or contributed to any
26 discharge. This alone requires that the Order be vacated as to Petitioner.

27 **B. The Regional Board Has No Evidence To Cite To Justify Requiring Petitioner**
28 **To Provide Requested Reports**

The Regional Board’s Order is not only contrary to Water Code section 13267, it is
inconsistent with the Board’s own actions. The Order names Petitioner, a crude oil pipeline
operator, and yet omits Plains All America, which, like Petitioner, operated crude oil lines in the

1 vicinity of the segment of the Channel. Such a position is not only arbitrary, it unfairly targets
2 Petitioner's operations while dismissing nearly identical operations altogether.

3 The Order is improper – and will continue to be improper – because the Regional Board
4 lacks evidence that justifies requiring Petitioner to perform the work requested in the Order. There
5 is no connection between the LNAPL detected within a segment of the Channel *south* of Carson
6 Street and Petitioner's pipelines *north* of Carson Street. There is no connection between the LNAPL
7 within the Channel and Petitioner's pipelines associated with crude oil or natural gas, neither of
8 which is characteristic of the nature of the contaminants emerging within the Channel. Substantial
9 evidence demonstrates that Petitioner is not a discharger or suspected discharger subject to the
10 requirements of Water Code section 13267.

11 **C. If Order is Not Vacated, It Should Be Amended To Assign Primary**
12 **Responsibility Properly**

13 Not only is Petitioner not a discharger or potential discharger, there is substantial evidence in
14 the record of other dischargers. As a result, the burden of the directives in the Order upon Petitioner
15 bear no reasonable relationship to the need for data, information or reports and provide no benefit to
16 be obtained therefrom. The burden, costs, and directives set forth in the Order are largely, if not
17 entirely, duplicative of other Regional Board directives. In particular, of the various sites identified
18 in the Order, eight are the subject of Underground Storage Tank (“UST”) or Site Clean-up Program
19 (“SCP”) investigations, which by nature involve subsurface monitoring and evaluations. Further, the
20 CAO issued just 9 days ago orders the operator of the Channel to not only remove the LNAPL
21 encountered but also, among other things, to “propose techniques to evaluate whether the subdrains
22 are providing a conduit for LNAPL. . . ; a technique to determine the lateral extent of the LNAPL;
23 [and] a technique to determine the extent of soil, groundwater, and soil vapor impact from
24 LNAPL[.]”

25 In light of the existing and future data requested by the Regional Board, the Order's
26 directives to Petitioner are unreasonable. The Order requires Petitioner “to delineate the vertical and
27 lateral extent of petroleum impact in the vicinity of the release” and to prepare a work plan that seeks
28 to determine “(1) the extent of petroleum impact from the Site [undefined] and (2) if your facility

1 has contributed to the release in the [Channel].” To require Petitioner to delineate the same areas as
2 the CAO as well as evaluate the extent to which its facilities contributed is unreasonable where
3 neither the Regional Board nor Petitioner have found any credible evidence that Petitioner is a
4 potential source of the LNAPL release. Further, the subsurface areas beneath the segment of the
5 Channel at issue have been or will be sampled by other entities, and the additional costs of further
6 sampling should be borne by the entities currently undertaking remediation and assessment
7 activities.

8 **D. If Order is Not Vacated, It Should Be Amended To An Appropriate Scope and**
9 **Response Time**

10 The Order is vague and ambiguous. It fails to provide legally sufficient grounds for requiring
11 Petitioner to engage in investigation activities, and complete and submit additional data, information
12 and/or reports. It fails to define the site at issue, other than to refer to a segment of the Channel
13 through which Petitioner’s pipelines do not pass. It fails to distinguish between primarily
14 responsible parties located nearest to the LNAPL impacts and other parties, such as Petitioner, that
15 are located further away and have operations unrelated to these impacts. If the Order is not vacated
16 as to Petitioner, it should be amended to address these ambiguities.

17 The Order is further unreasonable in that the Regional Board has failed to provide Petitioner
18 with a meaningful opportunity to address or refute the Order’s alleged findings and directives with
19 existing information and data. Petitioner has undertaken a diligent investigation to identify its current
20 and prior pipelines near the Channel only to have the product of its investigations largely if not
21 entirely disregarded. Despite three communications from Petitioner reiterating the lack of nexus
22 between its pipelines and the LNAPL on the Channel, the Regional Board has so far ignored the
23 conclusions of Petitioner’s investigations and instead apparently chosen to rely on a single reference
24 on a WOGA map. To allow the Regional Board to continue to enforce the Order in this fashion
25 denies Petitioner procedural due process and results in substantial harm. Petitioner faces unjustified
26 and inappropriate regulatory requirements, costs, and potential civil liability for failure to comply
27 with the Order. If the Order is not vacated as to Petitioner, it should be amended to provide
28

1 additional time to further demonstrate to the Regional Board the lack of evidentiary support for
2 imposing the extensive requirements of the Order upon Petitioner.

3 **E. A Stay Should be Issued**

4 Petitioner requests that the Board stay enforcement of the Order until the merits of this
5 Petition may be reviewed. A stay should be issued where, as here, a Petitioner establishes (1)
6 substantial harm to the Petitioner or to the public interest if a stay is not granted; (2) a lack of
7 substantial harm to other interested persons and to the public interest if a stay is granted; and (3)
8 substantial questions of law and fact regarding the disputed action. (Cal. Code Regs. tit. 23 § 2053.)

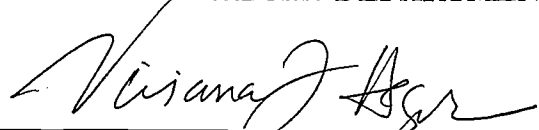
9 Should Petitioner be subject to the Order's requirement during the pendency of this Petition,
10 Petitioner would suffer substantial harm because the Order requires substantial environmental
11 investigation, the costs of which would be substantial. (See DiRocco Decl., ¶¶ 16-17.) While
12 Petitioner will suffer substantial harm without issuance of a stay, neither the public interest nor any
13 interested parties will suffer harm in the event the stay is issued because other responsible parties,
14 would remain subject to the Order's requirements. Additionally, there is substantial doubt about the
15 validity of the Order (both on the facts and the law); the Order fails to cite evidence establishing that
16 Petitioner has discharged or is suspected of discharging waste; and, all the relevant evidence cited in
17 the Order points to other parties.

18 For all the foregoing reasons, Petitioner requests that the State Board grant the relief
19 requested in this petition.

20
21 DATED: May 25, 2011

VIVIANA L. HEGER
TROPIC & MORLAN

23 DEBORAH P. FELT
24 BP AMERICA INC. LEGAL DEPARTMENT

25 

26 Viviana L. Heger

27 Attorneys for Petitioner
28 BP WEST COAST PRODUCTS LLC



California Regional Water Quality Control Board Los Angeles Region



320 West Fourth Street, Suite 200, Los Angeles, California 90013
(213) 576-6600 • FAX (213) 576-6640
<http://www.waterboards.ca.gov/losangeles>

Linda S. Adams
Acting Secretary for
Environmental Protection

Edmund G. Brown Jr.
Governor

April 26, 2011

Ms. Donna Diracho
BP Pipelines
1300 Pier B Street
Long Beach, CA 90813

**SUBJECT: REQUIREMENT FOR TECHNICAL REPORT – PURSUANT TO CALIFORNIA
WATER CODE SECTION 13267 ORDER**

**SITE/CASE: DOMINGUEZ CHANNEL, SOUTH OF CARSON STREET
CARSON, CALIFORNIA**

Dear Ms. Diracho:

The California Regional Water Quality Control Board, Los Angeles Region (Regional Board) is the public agency with primary responsibility for the protection of groundwater and surface water quality for all beneficial uses within major portions of Los Angeles and Ventura counties, including the referenced Site. To accomplish this, the Regional Board oversees the investigation and cleanup of unregulated discharges adversely affecting the State's water, authorized by the Porter-Cologne Water Quality Control Act (California Water Code [CWC], Division 7).

Since January 2011, light non-aqueous phase liquids (LNAPL) have been appearing within the Dominguez Channel in Carson, California, approximately 400 feet south of Carson Street. The petroleum product has been observed (1) entering into channel waters from sediments within the bottom of the channel and (2) within horizontal, perforated sub-drain pipe systems installed within both the west and east channel levees.

This Regional Board has been working in collaboration with other agencies, under United States Environmental Protection Agency (USEPA) lead, to facilitate the assessment and remedy of the release. As the channel owner and operator, the Los Angeles County Department of Public Works (LADPW) has been performing containment operations using booms and absorbent pads in the channel. In addition to the recovery of released product to channel waters, this Regional Board has requested that LADPW extract LNAPL from the sub-drain piping systems on both sides of the channel.

Samples of product entering channel waters from sediments in the bottom of the channel have been determined to contain primarily gasoline-range hydrocarbons, with smaller fractions of heavier-end (diesel- and oil-range) hydrocarbons. Product examined from the western sub-drain system was observed to be approximately 0.25 inch thick on one occasion with a clear and colorless appearance. Product examined from the eastern sub-drain system was observed to be dark brown to black and translucent. Based upon the variation in the visual appearance of the product, this Regional Board suspects that multiple releases of petroleum may be involved. The sources of the release have not been identified.

California Environmental Protection Agency

Ms. Donna Diracho
BP Pipelines

- 2 -

April 26, 2011


We have determined that, to protect the beneficial uses of the waters beneath the Site, an assessment of the full extent of impacts to the subsurface from the identified contaminants of concern is required.

Enclosed is a Regional Board Order requiring, pursuant to section 13267 of the CWC, that you complete assessments of the contaminants of concern impacting soil, soil vapor, and groundwater at the Dominguez Channel and determine the extent to which your facility may have contributed to the release.

Similar Orders are being sent to multiple suspected Responsible Parties in the vicinity of the release, including you. The attached Order includes a table that lists these parties. At your discretion, you may collaborate with some or all of the other parties to satisfy the requirements of the Order.

If you have any questions, please contact Mr. Greg Bishop at (213) 576-6727 or gbishop@waterboards.ca.gov.

Sincerely,


Samuel Unger, P.E.
Executive Officer

Enclosure



Linda S. Adams
Acting Secretary for
Environmental Protection

California Regional Water Quality Control Board Los Angeles Region

320 West Fourth Street, Suite 200, Los Angeles, California 90013
(213) 576-6600 • FAX (213) 576-6640
<http://www.waterboards.ca.gov/losangeles>



Edmund G. Brown Jr.
Governor

REQUIREMENT TO PROVIDE A TECHNICAL REPORT ON SOIL AND GROUNDWATER INVESTIGATION (CALIFORNIA WATER CODE SECTION 13267¹)

DIRECTED TO "BP PIPELINES"

**PIPELINES NORTH OF CARSON STREET, ADJACENT TO THE DOMINGUEZ CHANNEL;
PIPELINES BENEATH THE DOMINGUEZ CHANNEL, NORTH OF CARSON STREET; AND
PIPELINES WITHIN RECREATION ROAD, SOUTH OF CARSON STREET
CARSON, CALIFORNIA**

You are legally obligated to respond to this Order. Please read this carefully.

Since January 2011, light non-aqueous phase liquids (LNAPL) have been appearing within the Dominguez Channel in Carson, California, approximately 400 feet south of Carson Street. The petroleum product has been observed (1) entering into channel waters from sediments within the bottom of the channel and (2) within horizontal, perforated sub-drain pipe systems installed within both the west and east channel levees.

Pursuant to section 13267(b) of the California Water Code (CWC), you are hereby directed to submit the following:

1. By **June 8, 2011**, a work plan to delineate the vertical and lateral extent of petroleum impact in the vicinity of the release. The work plan shall be prepared with the intent of determining (1) the extent of petroleum impact from the Site and (2) if your facility has contributed to the release in the Dominguez Channel. The work plan shall place an emphasis on expedient groundwater delineation but shall also include plans to delineate soil and soil gas impacts. The work plan shall propose initial sampling locations, describe proposed sampling and analytical techniques, provide a proposed timeline for activities, and include provisions for follow-up work in the event the proposed work does not sufficiently define the extent of impact.
2. After approval by the Regional Board Executive Officer, implement the work plan and report results in accordance with the approved work plan schedule.

¹ California Water Code section 13267 states, in part: (b)(1) In conducting an investigation. . . , the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or, discharging, or who proposes to discharge waste within its region . . . shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.

The work plan shall be submitted via e-mail (in portable document format [pdf]) with one paper hard-copy to:

Mr. Greg Bishop, P.G.
Engineering Geologist
Regional Water Quality Control Board – Los Angeles Region
320 W. 4th Street, Los Angeles, CA 90013
(213) 576-6727
gbishop@waterboards.ca.gov

Pursuant to section 13268(b)(1) of the CWC, failure to submit the required technical or monitoring report described in paragraph 1 above may result in the imposition of civil liability penalties by the Regional Board, without further warning, of up to \$1,000 per day for each day the report is not received after the due dates.

The Regional Board needs the required information to determine (1) the extent of petroleum impact beneath and near the ongoing release within the Dominguez Channel, approximately 400 feet south of Carson Street in Carson, California and (2) whether your facility has contributed to the petroleum release.

The evidence supporting this requirement is your operation of a petroleum facility near the release site (see the attached table).

We believe that the burdens, including costs, of these reports bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. If you disagree and have information about the burdens, including costs, of complying with these requirements, provide such information to Mr. Greg Bishop within ten days of the date of this letter so that we may reconsider the requirements.

Please note that effective immediately, the Regional Board, under the authority given by California Water Code (CWC) section 13267, subdivision (b)(1), requires you to include a perjury statement in all reports submitted under the 13267 Order. The perjury statement shall be signed by a senior authorized Chevron Company representative (not by a consultant). The perjury statement shall be in the following format:

“I, [NAME], do hereby declare, under penalty of perjury under laws of State of California, that I am [JOB TITLE] for Chevron Company, that I am authorized to attest, that veracity of the information contained in [NAME AND DATE OF THE REPORT] is true and correct, and that this declaration was executed at [PLACE], [STATE], on [DATE].”

The State Water Resources Control Board (State Water Board) adopted regulations requiring the electronic submittals of information over the Internet using the State Water Board GeoTracker data management system. You are required not only to submit hard copy reports required in this Order, but also to comply by uploading all reports and correspondence prepared to date on to the GeoTracker data management system. The text of the regulations can be found at the URL:

Ms. Donna Diracho
BP Pipelines

- 3 -

April 26, 2011


http://www.waterboards.ca.gov/water_issues/programs/ust/electronic_submittal.

Any person aggrieved by this action of the Regional Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must *receive* the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:

http://www.waterboards.ca.gov/public_notices/petitions/water_quality

or will be provided upon request.

SO ORDERED.


Samuel Unger, P.E.
Executive Officer

Enclosure: Recipients of CWC Section 13267 Orders Associated with a Petroleum Release near Carson Street in Dominguez Channel, Carson, California, April 26, 2011

Recipients of CWC Section 13267 Orders
Associated with a Petroleum Release near Carson Street in the Dominguez Channel, Carson, California
April 26, 2011

Recipient	Salutation	First Name	Last Name	Company	Address	City	State	Zip	Phone	E-Mail	Basis for Order	Regional Board Program Case Number
1	Mr.	John	Crippen	Chevron Pipeline	16301 Trojan Way	La Mirada	CA	90638	714-936-4678	crippj@chevron.com	Former Union Oil pipeline within Perry Street, beneath Active RV, and adjacent to the Dominguez Channel	
2	Ms.	Holly	Quasem	ConocoPhillips Company	3900 Kilroy Airport Way, Suite 210	Long Beach	CA	90806	562-290-1727	holly.quasem@contractor.conocophillips.com	Former Texaco Gas Station (1025 E. Carson Street) with underground storage tanks operated at the site. Historically, free product (up to 1.28 feet) was identified beneath the site since July 1992. Groundwater samples collected detected TPHg up to 640,000 µg/L, benzene up to 37,000 µg/L, and TBA up to 76,000 µg/L.	UST: H-02903
3	Mr.	Mike	Romley	Crimson Pipeline	2459 Redondo Avenue	Long Beach	CA	90755	562-595-9463	mromley@crimsonpl.com	Former Union Oil pipeline within Perry Street, beneath Active RV, and adjacent to the Dominguez Channel	SCP: 0490C
4	Mr.	Eugene	Freed	Shell Oil Products US	20945 S. Wilmington Avenue	Carson	CA	90810-1039	818-991-5356	eugene.freed@shell.com	Former Carson Air Harbor facility Pipeline 0367 (water, active; former petroleum, inactive) Pipelines within Perry Street, formerly beneath Active RV and Dominguez Channel	SCP: 0490A/0490B
5	Mr.	Daniel	Gabel	Tesoro Corporation	1930 E. Pacific Coast Highway	Wilmington	CA	90744-2911	310-522-8602		Pipeline corridor approximately 400 feet west of I-405 and E. Carson Street	SCP: 0229B
6	Mr.	Courland	Prowell	Prowell Family Trust	3997 Mistral Road	Huntington Beach	CA	92649	714-719-1621	c/o Mr. Ron Prowell rprowell@gmail.com	Shell Gas Station Terminal (20945 Wilmington Avenue) Pipeline 0366 (jet fuel, active)	
7	Mr.	Rob	Speer	Chevron Environmental Management Company	4800 Fournace Pl #526A	Bellaire	TX	77401	713-432-2142		Former Active RV (1302 E. Carson Street) Former Humble Oil Gas Station (1216 E. Carson Street) Former Texaco Gas Station (1209 E. Carson Street); Chevron facility 21-1316) with underground storage tanks operated at the site. Historically, a petroleum sheen has been detected at the site since March 2004. LNAPL (0.03 foot) was identified in June 2010. Groundwater samples collected beneath the site detected TPHg up to 370,000 µg/L, TPHd up to 120,000 µg/L, benzene up to 14,000 µg/L, MTBE up to 41 µg/L, and TBA up to 54 µg/L.	UST: R-05994
8	Ms.	Donna	Diracho	BP Pipelines	1300 Pier 6 Street	Long Beach	CA	90813	562-499-2202	donna.diracco@bp.com	Pipelines north of Carson Street, adjacent to Dominguez Channel (oil and refined product) Pipelines beneath the Dominguez Channel north of Carson Street Pipelines within Recreation Road	

Legend

- UST Underground Storage Tank Program
- SCP Site Cleanup Program
- TPHg Total Petroleum Hydrocarbons (Gasoline Range)
- TPHd Total Petroleum Hydrocarbons (Diesel Range)
- MTBE Methyl tert-butyl ether
- TBA Tertiary Alcohol
- LNAPL Light Non-Aqueous Phase Liquids

Dominguez Channel Release Vicinity Facilities



DRAFT

May 13, 2011

This map is a work in progress that does not include all potential petroleum sources or pipelines.

Pipeline locations are approximate. Many of the pipeline runs shown represent more than one actual pipeline.

- Pipelines
 - DP Pipelines
 - Chevron Pipst no (?)
 - Crimson Pipeline
 - Plains All American, L.P.
 - Shell Oil Products US
 - Tesoro Corporation
- Sites
 - Non-Pipeline Site
 - Shell Carson Terminal (1)
 - Active HY (2)
 - Former Humble Oil Service Station (3)
 - Former Texaco Service Station (4)
 - Former Carson Air Harbor (5)
 - Unocal 76 Station (6)

bp



BP Pipelines (North America) Inc.
4 Centerpointe Drive
La Palma, CA 90623
U.S.A.

VIA COURIER

May 6, 2011

Mr. Samuel Unger, P.E.
Executive Officer
California Regional Water Quality Control Board
Los Angeles Region
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

Subject: Requirement for Technical Report – Pursuant to California Water Code Section 13267 Order

Site/Case: Dominguez Channel, South of Carson Street, Carson, CA

Dear Mr. Unger:

BP Pipelines (North America) Inc. (“BP”) is in receipt of the referenced Regional Water Quality Control Board (“RWQCB”) Order, dated April 26, 2011. The Order relates to an ongoing appearance or daylighting of light non-aqueous phase liquids (“LNAPL”) in the Dominguez Channel approximately 400 feet south of Carson Street. The LNAPL was initially assumed to have been originating from a Plains pipeline directly beneath the location where the LNAPL is daylighting in the channel. However, the Plains pipeline carries crude oil and the daylighting product is predominantly lighter-end gasoline-range hydrocarbons, with a small fraction of heavier-end compounds.

The Order states:

- LNAPL is emanating from sediments within the bottom of the channel and was found within horizontal, perforated sub-drain pipe systems installed within both the west and east channel levees.
- Samples of the LNAPL have been determined to contain primarily gasoline-range hydrocarbons, with smaller fractions of heavier-end (diesel- and oil-range) hydrocarbons.
- Product observed from the western sub-drain system has a clear and colorless appearance.



- Product observed from the eastern sub-drain system was observed to be dark brown to black and translucent.

The RWQCB recognizes that there are multiple potential sources in the area and has named BP along with seven (7) other entities as Potentially Responsible Parties (“PRPs”). The Order requests that BP participate with other PRPs to submit a work plan to the RWQCB by June 8, 2011 to delineate the vertical and lateral extent of petroleum impact at the referenced site.

In the table attached to the Order, the RWQCB alleges that the basis for naming BP in the Order is the existence of the following:

1. Pipelines north of Carson Street, adjacent to the Dominguez Channel (oil and refined product);
2. Pipelines beneath the Dominguez Channel north of Carson Street; and
3. Pipelines within Recreation Road.

Following receipt of the Order, BP has undertaken a review of its historical pipeline assets known to be in the immediate area of Dominguez Channel at Carson Street and within Recreation Road. The assets are as follows:

1. Pipeline 211: Active natural gas pipeline which runs adjacent to the Dominguez Channel and crosses approximately 15 feet below the bottom of the Dominguez Channel north of Carson Street, and continues into Recreation Road; and
2. Pipeline 1r: Abandoned crude oil pipeline which runs adjacent to the Dominguez Channel and crosses approximately 8 feet below the bottom of the Dominguez Channel north of Carson Street and continues into Recreation Road. Pipeline 1r was abandoned in 1994 and was later nitrogen purged.

Based upon this information, BP should not be considered a contributor to the LNAPL discovered in the Dominguez Channel. Neither of the BP pipelines noted above carries gasoline or diesel nor were known to carry these products in the past. There are multiple existing cleanup sites and other sources of LNAPL in the area which represent a far more likely basis for the LNAPL discovered in Dominguez Channel.

bp



BP Pipelines (North America) Inc.
4 Centerpointe Drive
La Palma, CA 90623
U.S.A.

BP believes that the burden imposed on BP by this Order is unreasonable when compared to the lack of data supporting BP as a likely contributor to the release and considering the numerous other existing LNAPL sources, and respectfully requests that the Order against BP be rescinded.

Sincerely,
BP PIPELINES (North America) Inc.

A handwritten signature in cursive script that reads "Erika Harding".

Erika Harding
Operations and Maintenance Manager

Cc: Mr. Greg Bishop, P.G., RWQCB

From: DiRocco, Donna
Sent: Wednesday, May 11, 2011 2:14 PM
To: 'Greg Bishop'
Subject: Dominguez Channel Release
Importance: High

Hi Greg -

I have obtained answers to your questions - please see responses below in blue.

Please let me know if you have any further questions.

Best regards,
Donna

Donna M. DiRocco
Environmental Coordinator, L.A. Basin
BP Pipelines (North America) Inc.,
1300 Pier B Street
Long Beach, CA 90813
ph (562) 499-2202
fax (562) 499-2300
cell (562) 244-9913
donna.dirocco@bp.com

From: Greg Bishop [<mailto:gbishop@waterboards.ca.gov>]
Sent: Friday, May 06, 2011 4:13 PM
To: DiRocco, Donna
Cc: GuiJun (Jeffrey) Hu
Subject: RE: Dominguez Channel Release

Donna:

Your letter references pipelines L-211 and 1r. The attached photos were taken along the east levee of the Dominguez Channel, 200 or so feet north of Carson Street. In addition to pipelines L-211 and 1r, they show markers for the following BP pipelines:

- 286+66 - The photo you attached shows a test lead location on Line 211 at stationing 1286+66. (The screw head is partially covering up the number 1). A test lead is a wire connection to the pipe so we may take an electrical potential of the line at the surface to determine that adequate cathodic protection is being applied to the line. Each line is monitored annually and all the rectifiers producing the cathodic protection current are read every other month. This monitoring schedule is required by D.O.T. regulations.

- L-1 L-1 is Line 1, which runs a total of approximately 18 miles. The particular stretch of Line 1 that is adjacent to and beneath the Dominguez Channel is known as Segment R)

Can you clarify what these are?

In addition, the "CalFire Oil Map" that I e-mailed indicates pipeline R-266 (an Atlantic Richfield 8-inch "refined products line"). Is this now (or was it ever) BP's pipeline?

The R-266 is a designation from the old WOGA (Western Oil and Gas) maps (maps no longer produced). The "R" designation stood for Atlantic Richfield. Each pipeline company was given their own letter designation. The 266 was a sequential WOGA number designation given to two Richfield lines, an 8" oil and a 10" oil. In this case it is referring to 10" Line 1 and 8" Line 6. As far as we know, Line 1 and Line 6 have always been in Crude service and crosses under the Dominguez Channel. Line 1 is now BP's pipeline. Line 6 was sold to Plains All American in approximately 1999. Further research has discovered an old abandoned section of 8" Line 6 which crosses the Dominguez channel in the same general area but was abandoned prior to 1964.

I'll touch base with you next week to see if we can clear this up.

Kind Regards,

Greg Bishop, PG
Engineering Geologist

=====

Site Cleanup Unit II
Los Angeles Regional Water Quality Control Board
320 W. 4th Street, Suite 200
Los Angeles, CA 90013
Phone: (213) 576-6727
Fax: (213) 576-6717
email: gbishop@waterboards.ca.gov

>>> On 5/6/2011 at 3:15 PM, in message <058BFB882C99804D93F6C290BCB2F052059F7F4D@BP1XILEX010-C.bp1.ad.bp.com>, "DiRocco, Donna" <Donna.DiRocco@bp.com> wrote:

Hi Greg -

Attached please find BP's response to your request for a work plan for a subsurface investigation at the referenced site. A hard copy of this letter is being couriered to both you and Mr. Samuel Unger today.

I will contact you next week to discuss this further, or alternatively you may contact me at your convenience.

Best regards,

Donna M. DiRocco
Environmental Coordinator, L.A. Basin
BP Pipelines (North America) Inc.
1300 Pier B Street
Long Beach, CA 90813
ph (562) 499-2202
fax (562) 499-2300
cell (562) 244-9913
donna.dirocco@bp.com

From: DiRocco, Donna
Sent: Wednesday, May 18, 2011 7:44 AM
To: 'Greg Bishop'
Cc: Felt, Deborah P; Harding, Erika A; Skance, John
Subject: Dominguez Channel Release
Importance: High

Hi Greg -

I have responses to your questions raised in your May 12th email. Please see your May 12th email below where your questions are in black and BP's response is in blue. Sorry for the delay in getting this to you, but it took some time to locate records.

I also want to apologize for missing the May 13th meeting. I was conducting Hazwoper training that day, and for some reason, I thought the meeting was the 23rd, not the 13th. I had an opportunity to review the slides from the meeting and I also understand that there was a response provided by Chevron requesting withdrawal of the Order pending the May 13 meeting so the petition deadline would not continue to run. They also asked that, if the Order is re-issued, any due dates in the new order be extended by 60 days to allow the parties to do some research on the facilities and the investigations already conducted, as well as time to determine if and how to work together to respond. Has the RWQCB responded to this request to either withdraw the order or extend the due dates?

Also, thank you for the email that you sent last night which included the Order to the County of Los Angeles Flood Control District. Will this Order have any impact on the due dates in our Order?

Please feel free to contact me with any additional questions.

Best regards,

Donna M. DiRocco
Environmental Coordinator, L.A. Basin
BP Pipelines (North America) Inc.
1300 Pier B Street
Long Beach, CA 90813
ph (562) 499-2202
fax (562) 499-2300
cell (562) 244-9913
donna.dirocco@bp.com

From: Greg Bishop [mailto:gbishop@waterboards.ca.gov]
Sent: Thursday, May 12, 2011 8:25 AM
To: DiRocco, Donna
Subject: Re: Dominguez Channel Release

Thank you, Donna. I have some additional questions:

- The e-mail below states that "Line 6 was sold to Plains All American in approximately 1999". Whose was this before 1999? The section of Line 6 that was sold to Plains was previously owned by ARCO Pipeline Company, a subsidiary of Atlantic Richfield Company. BP purchased Atlantic Richfield Company in 2000. Was Line 6 ever BP's asset? The portion that was sold to Plains was never BP's asset because it was sold to Plains prior to BP's purchase of ARCO. The abandoned portion of Line 6 remains BP's asset.
- The e-mail below also states that "Further research has discovered an old abandoned section of 8" Line 6 which crosses the Dominguez Channel in the same general area but was abandoned prior to 1964". Is this the 8-inch ARCO (R-266) refined products line that is depicted on the WOGA/"CalFire Oil Map"? Yes. It is also shown on the WOGA Map 2 as an oil line. Is this now, or was it ever, owned by or otherwise the responsibility of BP? As stated above, the portion that was sold to Plains in 1999 is Plains' asset as of the date of the sale. The abandoned portion is BP's asset, even though it has not been in service since approximately 1964. Do you know why it was taken out of service? This section of line 6 was abandoned due to a re-route of the the line caused by improvements made to the Flood Control (Dominguez Channel) Right-of-Way.

Greg Bishop, PG
Engineering Geologist

=====
Site Cleanup Unit II
Los Angeles Regional Water Quality Control Board
320 W. 4th Street, Suite 200
Los Angeles, CA 90013
Phone: (213) 576-6727
Fax: (213) 576-6717
email: gbishop@waterboards.ca.gov

>>> On 5/11/2011 at 2:39 PM, in message <058BFB882C99804D93F6C290BCB2F05205A4B7D7@BP1XILEX010-C.bp1.ad.bp.com>, "DiRocco, Donna" <Donna.DiRocco@bp.com> wrote:

Hi Greg -

I have obtained answers to your questions - please see responses below in blue.

Please let me know if you have any further questions.

Best regards,
Donna

Donna M. DiRocco
Environmental Coordinator, L.A. Basin
BP Pipelines (North America) Inc.
1300 Pier B Street
Long Beach, CA 90813
ph (562) 499-2202
fax (562) 499-2300
cell (562) 244-9913
donna.dirocco@bp.com

From: Greg Bishop [mailto:gbishop@waterboards.ca.gov]
Sent: Friday, May 06, 2011 4:13 PM
To: DiRocco, Donna

Cc: GuiJun (Jeffrey) Hu
Subject: RE: Dominguez Channel Release

Donna:

Your letter references pipelines L-211 and 1r. The attached photos were taken along the east levee of the Dominguez Channel, 200 or so feet north of Carson Street. In addition to pipelines L-211 and 1r, they show markers for the following BP pipelines:

- 286+66 - The photo you attached shows a test lead location on Line 211 at stationing 1286+66. (The screw head is partially covering up the number 1). A test lead is a wire connection to the pipe so we may take an electrical potential of the line at the surface to determine that adequate cathodic protection is being applied to the line. Each line is monitored annually and all the rectifiers producing the cathodic protection current are read every other month. This monitoring schedule is required by D.O.T. regulations.
- L-1 L-1 is Line 1, which runs a total of approximately 18 miles. The particular stretch of Line 1 that is adjacent to and beneath the Dominguez Channel is known as Segment R)

Can you clarify what these are?

In addition, the "CalFire Oil Map" that I e-mailed indicates pipeline R-266 (an Atlantic Richfield 8-inch "refined products line"). Is this now (or was it ever) BP's pipeline?

The R-266 is a designation from the old WOGA (Western Oil and Gas) maps (maps no longer produced). The "R" designation stood for Atlantic Richfield. Each pipeline company was given their own letter designation. The 266 was a sequential WOGA number designation given to two Richfield lines, an 8" oil and a 10" oil. In this case it is referring to 10" Line 1 and 8" Line 6. As far as we know, Line 1 and Line 6 have always been in Crude service and crosses under the Dominguez Channel. Line 1 is now BP's pipeline. Line 6 was sold to Plains All American in approximately 1999. Further research has discovered an old abandoned section of 8" Line 6 which crosses the Dominguez channel in the same general area but was abandoned prior to 1964.

I'll touch base with you next week to see if we can clear this up.

Kind Regards,

Greg Bishop, PG
Engineering Geologist

=====
Site Cleanup Unit II
Los Angeles Regional Water Quality Control Board
320 W. 4th Street, Suite 200
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Fax: (213) 576-6717

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>>> On 5/6/2011 at 3:15 PM, in message <058BFB882C99804D93F6C290BCB2F052059F7F4D@BP1XILEX010-C.bp1.ad.bp.com>, "DiRocco, Donna" <Donna.DiRocco@bp.com> wrote:

Hi Greg -

Attached please find BP's response to your request for a work plan for a subsurface investigation at the referenced site. A hard copy of this letter is being couriered to both you and Mr. Samuel Unger today.

I will contact you next week to discuss this further, or alternatively you may contact me at your convenience.

Best regards,

Donna M. DiRocco
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15 Deborah.Felt@bp.com

16 Attorneys for Petitioner
17 **BP PIPELINES (NORTH AMERICA) INC.**



18 **STATE OF CALIFORNIA**
19 **WATER RESOURCES CONTROL BOARD**

20 In the Matter of Los Angeles Regional Water
21 Quality Control Board 13267 Order – Dominguez
22 Channel 400 Feet South of Carson Street, Carson,
23 California; The Petition of
24 **BP PIPELINES (NORTH AMERICA) INC.,**
25
26 Petitioner

27 **SWRCB File No. _____**
28 **DECLARATION OF DONNA M. DIROCCO IN SUPPORT OF PETITION FOR REVIEW AND FOR HEARING ON PETITION; REQUEST FOR STAY**

29 I, Donna M. DiRocco, declare as follows:

30 1. I am the Environmental Coordinator with BP Pipelines (North America) Inc. (“BP”) and am responsible for communicating with the Los Angeles Regional Water Quality Control Board (“Regional Board”) in connection with a Water Code section 13267 Order (the “Order”) dated April 26, 2011. The Order was issued to BP and others by the Executive Officer of the Regional Board with regard to an investigation pertaining to a segment of the Dominguez Channel (“Channel”) in

1 Carson, California.

2 2. This declaration is submitted in support of BP's Petition for Review and Request for
3 Hearing; Request for Stay, timely filed on or before May 26, 2011 to seek review of the Order
4 ("Petition").

5 3. The Regional Board has observed light non-aqueous phase liquids ("LNAPL") within
6 the Channel 400 feet south of Carson Street.

7 4. BP was named in the Order solely because it has pipelines in the vicinity of the
8 segment of the Channel at issue in the Order. As explained further in the Points and Authorities
9 submitted with the Petition, BP has not discharged any waste or contributed in any manner to the
10 LNAPL that has been observed within a segment of the Channel south of Carson Street. A copy of
11 the Order is attached as Exhibit 1 to the Petition.

12 5. The Order states that primarily refined (gasoline-range) petroleum products are
13 entering the Channel from (i) the bottom of the Channel and (ii) horizontal, perforated sub-drain pipe
14 systems installed within both the west and east channel levees.

15 6. The Channel is owned by the Los Angeles County Department of Public Works and
16 operated by the Los Angeles County Flood Control District, which is subject to a May 17, 2011
17 Clean-up and Abatement Order ("CAO") to prepare a work plan for initial extraction of the LNAPL
18 and for investigation of the LNAPL. (*See* CAO Case No. 1528; File No. 11-061.)

19 7. The Order identifies various current or former operations near the segment of the
20 Channel at issue. BP's pipelines identified in the Order have been used to transport crude oil or
21 natural gas. BP's Points and Authorities list each of the current and former operations identified in
22 the Order.

23 8. During a May 13, 2011 meeting, the Regional Board provided a map of the segment
24 of the Channel at issue, which showed, among other things, that Plains All American, L.P. ("Plains")
25 owns or operates pipeline(s) crossing the segment of the Channel at issue. A copy of the map
26 distributed by the Regional Board is attached as Exhibit 2 of the Petition. The Plains pipeline(s),
27 like BP's, are or were used for crude oil transport. It is my understanding that the Board did not
28 identify Plains in the Order because its pipeline(s), like BP's, have been or continue to be in crude

1 oil service.

2 9. BP has been diligent in its attempts to cooperate with the Regional Board and comply
3 with the terms of the Order. In response to the April 26, 2011 Order, BP immediately undertook a
4 diligent investigation of internal records dating as far back as 1963 to identify the origin, extent, and
5 use of pipelines located near the segment of the Channel impacted by LNAPL. BP's investigations
6 identified consistent information about three pipelines, as follows:

No(s).	BP Lines	Dates of Operation		Other Information
		Start	End	
211	12" for Crude	1983	2000	Exclusively in natural gas or crude service; Inline inspection (ILI) during interval 2007-2009
	12" for Natural Gas	2000 2009	2007 Current	
1 (aka 266)	10" for Crude	1925	1994	Exclusively crude
6 (aka 266)	8" for Crude	1928	1963 - one piece abandoned in place 1999 - remainder sold to Plains	Exclusively crude.

17 10. Based on internal investigations, none of BP's pipelines handled refined petroleum
18 products, which are the primary source of the LNAPL reported to be impacting the Channel. Also,
19 none of these pipelines are located within the segment of the Channel south of Carson Street where
20 LNAPL has been observed. Rather, each of these lines crosses the channel north of Carson Street
21 and runs parallel to the Channel south of Carson Street.

22 11. As requested in the Order, BP conveyed information related to its pipelines to the
23 Regional Board in a May 6, 2011 letter. (See Exh. 3 of Petition.) That letter explained, among other
24 things, that BP is not a contributor of LNAPL because it did not carry gasoline or diesel and that
25 other known sources of LNAPL are present in the area.

26 12. To further address Regional Board inquiries, BP remained in communication with the
27 Board via email in early May 2011 and responded to board inquiries related to specific pipelines.
28 BP and the Regional Board's email communications were primarily regarding an isolated reference

1 on an old Western Oil and Gas Association map (“WOGA”), apparently reflecting a refined product
2 pipeline known as “R-266.” The “R” designation in “R-266” refers to pipelines operated by BP’s
3 predecessor, Richfield Oil Corporation. The WOGA map includes charts with numerous rows and
4 ~~columns and hand-written notations to denote the number and types of lines apparently depicted on~~
5 the map. In one segment of a multi-row and column chart, a “1” is marked under the column labeled
6 “Oil Line – 8” ” and another “1” is marked in a column labeled “Oil Line – 10” ”. This information
7 correctly reflects BP Lines 1 and 6, referenced above. However, another segment of the WOGA
8 chart shows a third line; on the chart, a “1” is marked under the column labeled “Refined Products
9 Lines – 8” ” on the row associated with R-266. This information is directly at odds with all records I
10 and others at BP have reviewed because BP records reflect the operation of only two lines, both in
11 crude oil service. Nonetheless, the Regional Board considers this reference to refined products as
12 substantial evidence to support the Order.

13 13. BP has disputed this isolated reference on the WOGA map. The reference is contrary
14 to all information identified in BP’s internal investigation and, therefore, appears entirely unreliable
15 and not credible. The reference to an eight-inch refined product line on the WOGA map must be an
16 error because BP never operated three lines. Further, BP could not have used its eight-inch crude
17 line to transport refined product. Industry practice does not allow an operator to “flip flop” the use
18 of a crude line to refined product line because to do so contaminates the refined product. Thus, the
19 WOGA map’s reference to an eight-inch refined product line is not substantiated in either records or
20 industry practice.

21 14. I explained to the Regional Board in May 11 and 18, 2011 emails that R-266 refers to
22 Lines 1 and 6, referenced above, and that BP records show that both have been used only for crude
23 oil. I further explained that an old abandoned section of Line 6 crossed the Dominguez Channel and
24 was abandoned before 1964. This abandoned pipeline segment was decommissioned properly in
25 accordance with procedures required at that time. Given the year of its decommissioning, this
26 segment cannot be a likely source of any LNAPL materials decades later. Also, the abandoned
27 segment was located further north than the locations of Lines 211 and 1, and, therefore, is even
28 further from the area where the Channel is impacted today, according to recent internal

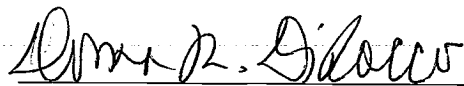
1 investigations.

2 15. The Regional Board has apparently disregarded BP's investigations. In a May 23,
3 2011 letter, the Regional Board continues to assert that BP's lines may have been used for other
4 products, ~~apparently relying on the single hand-written reference on the WOGA map that is contrary~~
5 to company records and industry practice. The Board seeks to enforce the terms of the Order
6 without any modifications to address the lack of a factual or legal basis to name BP.

7 16. Based upon my work with experts in connection with my environmental
8 responsibilities at BP, I am familiar with the cost of environmental investigations and assessments.
9 Based upon this understanding, BP would suffer substantial harm because the Order requires
10 extensive environmental investigation that, without issuance of a stay, would impose a substantial
11 burden upon BP, particularly in light of the lack of credible evidence that BP is the source of the
12 LNAPL.

13 17. The Order requires BP "to delineate the vertical and lateral extent of petroleum
14 impact in the vicinity of the release" and to prepare a work plan that seeks to determine "(1) the
15 extent of petroleum impact from the Site [undefined] and (2) if your facility has contributed to the
16 release in the [Channel]." To require BP to delineate the same areas as the CAO as well as evaluate
17 the extent to which its facilities contributed is unreasonable where neither the Regional Board nor
18 BP have found any credible evidence that Petitioner is a potential source of the LNAPL release.
19 Further, the subsurface areas beneath the segment of the Channel at issue have been or will be
20 sampled by other entities, and the additional costs of further sampling should be borne by the entities
21 currently undertaking remediation and assessment activities.

22
23 I declare under penalty of perjury under the laws of the State of California that the
24 foregoing is true and correct. Executed this 25th day of May 2011.

25
26 

27 Donna M. DiRocco
28