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Attorneys for Petitioner CRIMSON PIPELINE, L.P.

**BEFORE THE STATE WATER RESOURCES CONTROL BOARD**

In the Matter of Appeal of Water Code Section  
13267 Order for Technical Report Pursuant to  
Water Code Section 13267

VIA: Electronic Submission with Hardcopy to  
Follow

**PETITION FOR REVIEW AND  
REQUEST FOR STAY OF ORDER**

Pursuant to Section 13320 of California Water Code and Section 2050 of Title 23 of the California Code of Regulations (CCR), CRIMSON PIPELINE, L.P. ("Petitioner") petitions the State Water Resources Control Board ("State Board") to review and vacate or amend the Order for Technical Report Pursuant to Water Code Section 13267 issued April 26, 2011 ("Order") of the California Regional Water Quality Control Board for the Los Angeles Region ("Regional Board") which ordered Petitioner to submit a work plan to delineate the vertical and lateral extent of petroleum at a site within the Dominguez Channel in Carson, approximately 400 feet South of Carson Street ("Site"). The Order specifies that the work plan "be prepared with the intent of determining (1) extent of petroleum impact from the Site and (2) if your facility has contributed to the release in the Dominguez Channel." However, the Order is not based on any credible evidence and is inconsistent with the manner in which the Regional Board has treated other similarly situated parties in the area. Petitioner requests the Order be stayed pending review due to substantial costs that would be incurred by Petitioner pending this review. Additionally, Petitioner requests that the State Board vacate, or in

the alternative, stay the requirements of the Site Cleanup Program Oversight Cost Reimbursement Letter issued to Petitioner and dated May 10, 2011 ("Letter").

The issues raised in this petition were raised in timely written request to reconsider the Order. Moreover, the relief requested herein will not interfere with the investigation of the Site because the Region Board has issued orders to other, more appropriate parties that, unlike Petitioner, are known to have used, stored and transported the hazardous materials at issue in this matter.

**1. NAME AND ADDRESS OF THE PETITIONERS:**

Crimson Pipeline, L.P.  
2459 Redondo Avenue  
Long Beach, CA 90755  
Attn: Larry Alexander

**2. THE SPECIFIC ACTION OR INACTION OF THE REGIONAL BOARD WHICH THE STATE BOARD IS REQUIRED TO REVIEW AND A COPY OF ANY ORDER OR RESOLUTION OF THE REGIONAL BOARD WHICH IS REFERRED TO IN THE PETITION:**

Petitioner seeks review of Order for Technical Report Pursuant to Water Code Section 13267, dated April 26, 2011 ("Order"). A copy of the Order is attached hereto, and filed concurrently, as Exhibit 1. Petitioner also seeks relief from the Site Cleanup Program Oversight Cost Reimbursement Letter issued to Petitioner and dated May 10, 2011 ("Letter"). A copy of the Letter is attached hereto, and filed concurrently, as Exhibit 2.

**3. THE DATE ON WHICH THE REGIONAL BOARD ACTED OR REFUSED TO ACT OR ON WHICH THE REGIONAL BOARD WAS REQUESTED TO ACT:**

April 26, 2011.

**4. A FULL AND COMPLETE STATEMENT OF THE REASONS THE ACTION OR FAILURE TO ACT WAS INAPPROPRIATE OR IMPROPER:**

Petitioner contends that the following actions by the Regional Board were improper and lacked merit:

1. The Order is issued to Petitioner under Water Code Section 13267. The Order is issued to Petitioner on the basis of its ownership of a petroleum facility in the vicinity of the Site. Petitioner owns an idle crude oil pipeline adjacent to the Dominguez Channel. The pipeline was

acquired by Petition in 2007. The pipeline was taken out of service, emptied of crude oil, nitrogen purged and sealed by its former owner in 1999.

2. There is no evidence of a discharge from the pipeline. The records of former owners contain no evidence of any leak or other release from the pipeline during its operation.

Petitioner is conducting tests to confirm the integrity of the pipeline. In the absence of any evidence of a release of crude oil from the pipeline, Petitioner cannot be held responsible for the release at the Site.

3. The pipeline connected crude oil production locations to a crude oil pipeline during its operation. Crude oil is the only substance that was transported or could have been transported through the pipeline. The records of the former owner and its predecessors establish the pipeline transported crude oil and no other substance.

4. The substance found at the site is light non-aqueous phase liquid ("LNAPL"). LNAPL could not have originated from a release of crude oil. The pipeline could not have been the source of a release of LNAPL during its operation.

5. In order for Petitioner's pipeline to have been use to transport products that could be a source of LNAPL, such as gasoline or jet fuel, the pipeline would have had to be registered with the California State Fire Marshal as a jurisdictional pipeline. The California State Fire Marshall has no records of the registration the pipeline as a products pipeline.

6. The Regional Board contends it has found "smaller fractions of heavier-end (diesel-and oil range) hydrocarbons" at the Site. This contention is based primarily on a single sample taken at the Site. The analytical "Results" for the referenced sample states "[i]t is not possible based on the analysis conducted to determine if the heavier petroleum product is lubricating oil or a degraded fuel oil due to the limited quantity of product in the sample." A copy of the Results is attached hereto, and filed concurrently, as Exhibit 3. Lubricating oil and fuel oil are refined products that are not transported in crude oil pipelines. The analytical data contradicts the Regional Board's contention that this sample may have contained crude oil. The Regional Board has no analytical data supporting its claim that a sample contained crude oil.

7. The method used to collect that sample may have allowed contamination of the sample with hydrocarbon molecules from sediments in the Dominguez Channel from sources other than release that is the subject of the Order.

8. The Regional Board contends that it observed products that could be crude oil in drains at the Site. Such products may be residue from LNAPL or other refined hydrocarbons, such as lubricating oil or fuel oil. The mere presence of a "dark brown to black and translucent" substance containing hydrocarbons is not proof of a release of crude oil.

9. The Regional Board has no credible or scientifically valid evidence to support its contention that crude oil is a constituent of the release.

10. Petitioner's pipeline is adjacent to an active crude oil pipeline. Despite it being an active pipeline, the Regional Board has not issued a similar order to the operator of that pipeline. Instead, the Regional Board has allowed the operator to conduct integrity assessment on their pipeline rather than pursue the investigation requested of Petitioner. Petitioner is merely seeking similar treatment from the Regional Board. There are additional active crude oil pipelines in the vicinity of the Site. Assuming crude oil is present in the Release, which Petitioner does not admit, Petitioner's idle pipeline is the least probable source of such crude oil.

##### **5. THE MANNER IN WHICH THE PETITIONS ARE AGGRIEVED.**

The Petitioner is being ordered to investigate and remediate contamination for which it is not responsible and for which it could not have been responsible. The Regional Board lacks any basis to suspect Petitioner's idle pipeline is the source of any release at the Site. The Order and Letter are premature until the Regional Board has evidence that Petitioner's pipeline is contributed to the release or could have contributed to the release.

Petitioner will be aggrieved if it is compelled expend funds and resources to prepare and implement a work plan for investigation of the Site or is compelled to respond to the Letter and contribute to the costs of any investigations. Petitioner requests that the State Board vacate the Order and Letter or stay the Order and Letter until Petitioner completes its integrity testing and the Regional Board has an opportunity to reconsider its Order and Letter on the basis of those results.

**6. THE SPECIFIC ACTION BY THE STATE OR REGIONAL BOARD WHICH PETITIONER REQUESTS.**

The Petitioners seek an immediate stay of the Order and Letter, while the Board reviews this Petition.

Further, the Petitioners seek the following action:

- 1) The Petitioner respectfully requests that the Board vacate the Order and Letter.
- 2) In the alternative, the Petitioners request that the Board amend the Order in the following manner:
  - a) limit the requirement of the Petitioner to conducting integrity testing of its pipeline;
  - b) withdraw the requirement to conduct any additional activity until such testing is completed; and
  - c) release Petitioner from the requirements of the Letter until the integrity testing is completed.

**7. A STATEMENT OF POINTS AND AUTHORITIES IN SUPPORT OF LEGAL ISSUES RAISED IN THE PETITION.**

Water Code section 13267 confers authority on Regional Boards to issue orders only to “any person who has discharged, discharges, or is suspected of having discharged or, discharging, or who proposes to discharge waste into its region . . .” California Water Code section 13267.

The Regional Board has no factual support for its contention that Petitioner’s pipeline may have transported any substance other than crude oil. The Regional Board lacks credible scientific evidence to support its contention that crude oil is a constituent of the release at the Site. Therefore, the Regional Board had no factual basis to attribute the discharge at the Site to Petitioner or to suspect that Petitioner’s pipeline is the source of that discharge.

As established in prior State Board precedent cited in the Regional Board’s Order, the Regional Board must show “substantial evidence” to name a party as a discharger. *See* WQ 86-16 (*Stinnes-Western Chemical Corp.*) and WQ 85-7 (*Exxon*). The Regional Board has no factual support for its conclusion that the current release is the result of a discharge from Petitioner’s long-idled pipeline. Therefore, the Regional Board has no authority to issue the Order or the Letter.

**8. A STATEMENT THAT THE PETITION HAS BEEN SENT TO THE APPROPRIATE REGIONAL BOARD AND TO THE DISCHARGERS, IF NOT THE PETITIONER.**

A true and correct copy of this Petition and all supporting documentation were sent via overnight delivery and electronically to:

- 1) State Water Resources Control Board  
Office of Chief Counsel  
Jeannette L. Bashaw, Legal Analyst  
P.O. Box 100  
Sacramento, CA 95812-0100  
jbashaw@waterboards.ca.gov
- 2) Regional Water Quality Control Board – Los Angeles Region  
Mr. Greg Bishop, P.G.  
Engineering Geologist  
320 W. 4th Street, Los Angeles, CA 90013  
gbishop@waterboards.ca.gov
- 3) Regional Water Quality Control Board – Los Angeles Region  
Mr. Samuel Unger, P.E.  
Executive Officer  
320 W. 4th Street, Los Angeles, CA 90013  
sunger@waterboards.ca.gov

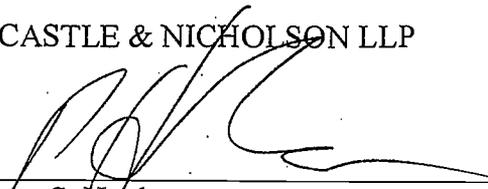
**9. A STATEMENT THAT THE ISSUES RAISED IN THE PETITION WERE PRESENTED TO THE REGIONAL BOARD BEFORE THE REGIONAL BOARD ACTED, OR AN EXPLANATION OF WHY THE PETITIONER COULD NOT RAISE THOSE OBJECTIONS BEFORE THE REGIONAL BOARD.**

The issues raised in the Petition were first presented to the Regional Board in Petitioner' letter to the Regional Board dated May 6, 2011, attached hereto as Exhibit 4, in which Petitioner requested reconsideration of the Order and stated grounds for reconsideration. Additionally, Petitioner has raised the issued set forth in the Petition in multiple conversations with staff members

of the Regional Board. Petitioner's request for reconsideration was denied by a letter from the Regional Board dated May 23, 2011.

DATED: May 26, 2011

COX, CASTLE & NICHOLSON LLP

By: 

Perry S. Hughes

Attorneys for Petitioners Crimson Pipeline, L.P.

Exhibit 1

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Exhibit 1

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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

April 26, 2011

Mr. Mike Romley  
Crimson Pipeline  
2459 Redondo Avenue  
Long Beach, CA 90755

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

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

Dear Mr. Romley:

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*

Mr. Mike Romley  
Crimson Pipeline

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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](mailto:gbishop@waterboards.ca.gov).

Sincerely,

  
Samuel Unger, P.E.  
Executive Officer

Enclosure

*California Environmental Protection Agency*

 Recycled Paper



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 13267<sup>1</sup>)

DIRECTED TO "CRIMSON PIPELINE"

FORMER UNION OIL PIPELINE  
WITHIN PERRY STREET, BENEATH ACTIVE RV (1202 E. CARSON STREET), AND  
ADJACENT TO THE DOMINGUEZ CHANNEL  
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.

<sup>1</sup> 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.

Mr. Mike Romley  
Crimson Pipeline

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April 26, 2011

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. 4<sup>th</sup> 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.

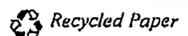
Please note that effective immediately, the Regional Board, under the authority given by California Water Code (CWC) section 13267, subdivision (b)(1), requires you to include a perjury statement in all reports submitted under the 13267 Order. The perjury statement shall be signed by a senior authorized 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:

[http://www.waterboards.ca.gov/water\\_issues/programs/ust/electronic\\_submittal](http://www.waterboards.ca.gov/water_issues/programs/ust/electronic_submittal).

*California Environmental Protection Agency*



Mr. Mike Romley  
Crimson Pipeline

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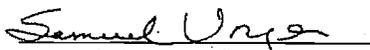
April 26, 2011

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](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 25, 2011**

Recipient	Situation	First Name	Last Name	Company	Address	City	State	Zip	Phone	E-Mail	Back to Order	Regional Board Program Case Number
1	Mr.	John	Crippen	Chevron Pipeline	16301 Trojan Way	La Mirada	CA	90638	714-936-4678	crippi@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 Kitroy Airport Way, Suite 210	Long Beach	CA	90806	562-290-1727	holly.quasem@contractor.conocophillips.com	76 Service 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: 142903
3	Mr.	Mike	Romley	Cimason Pipeline	2459 Redondo Avenue	Long Beach	CA	90755	562-595-9463	mfromley@cimasonpl.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	1830 E. Pacific Coast Highway	Wilmington	CA	90744-2911	310-522-8602		Shell Carson Terminal (20945 Wilmington Avenue) Pipeline 0366 (jet fuel, active)	SCP: 0229B
6	Mr.	Courtland	Prowell	Prowell Family Trust	3897 Mistral Road	Huntington Beach	CA	92649	714-719-1621	C/O Mr. Ron Prowell rprowell@gmail.com	Former Active RV (1202 E. Carson Street) Former Humble Oil Gas Station (1216 E. Carson Street) Former Tesoro Gasoline 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.	SCP: 1110A SCP: 1110B UST: R-05994
7	Mr.	Rob	Speer	Chevron Environmental Management Company	4800 Fournace Pl. #526A	Bellaire	TX	77401	713-432-2142		Pipelines north of Carson Street, adjacent to Dominguez Channel (oil and refined product)	
8	Ms.	Donna	Ortacho	BP Pipelines	1300 Pier B Street	Long Beach	CA	90813	562-499-2202	donna.dirocco@bp.com	Pipelines beneath the Dominguez Channel north of Carson Street Pipelines within Recreation Road	

**Legend**  
 UST  
 SCP  
 Site Cleanup Program  
 TPHg  
 Total Petroleum Hydrocarbons (Gasoline Range)  
 TPHd  
 Total Petroleum Hydrocarbons (Diesel Range)  
 MTBE  
 Methyl tert-butyl ether  
 TBA  
 Tert-Butyl Alcohol  
 LNAPL  
 Light Non-Aqueous Phase Liquids

# Exhibit 2

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# Exhibit 2

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California Regional Water Quality Control Board  
Los Angeles Region



Linda S. Adams  
Acting Secretary for  
Environmental Protection

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

May 10, 2011

Mr. Mike Romley  
Crimson Pipeline  
2459 Redondo Avenue  
Long Beach, CA 90755

RECEIVED ON  
MAY 13 2011  
BY: CRIMSON PIPELINE L.P.

**SUBJECT: SITE CLEANUP PROGRAM OVERSIGHT COST REIMBURSEMENT ACCOUNT**

**SITE/CASE: DOMINGUEZ CHANNEL RELEASE, CARSON, CALIFORNIA (SCP NO. 1260)**

Dear Mr. Romley:

The California Regional Water Quality Control Board (Regional Board), Los Angeles Region, is the public agency with primary responsibility for the protection of ground and surface water quality for all beneficial uses within major portions of the Los Angeles and Ventura Counties, including the referenced site.

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 in the vicinity of your petroleum infrastructure. 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. On April 26, 2011, this Regional Board issued a California Water Code (CWC) Section 13267 Order to you to provide a work plan to investigate the extent to which your facility may have impacted the subsurface in the vicinity of the release.

Section 13304 of the CWC (Porter Cologne Act) allows the Regional Board to recover reasonable expenses from a responsible party or parties for overseeing the investigation and cleanup of unregulated discharges adversely affecting the State's waters. In compliance with Section 13365 of the California Water Code, this letter is being sent to provide you the following information regarding costs for regulatory oversight work.

**I. Estimate of Work To be Performed**

The Regional Board staff estimates that during the Regional Board's 2010/2011 fiscal year (July 1, 2010 to June 30, 2011), regulatory oversight work may include but not limited to the following tasks to be performed at the site:

1. Review technical reports and determine if the contamination sources and plumes are fully delineated vertically and laterally;
2. Request and review of additional assessment workplans and reports, detailed remediation design and installation plan, progress and monitoring reports, risk assessment workplans and reports, and other technical reports as necessary;
3. Prepare comment letters on various reports and communicate findings to responsible parties;

*California Environmental Protection Agency*

4. Conduct site inspections, collect split samples, and attend meetings with environmental consultants and responsible parties; and
5. Conduct internal and external communications (i.e. meetings, memos) about or related to the site.

## **II. Statement of Expected Outcome**

The expected outcome of work that will be performed includes providing written comments on the submitted reports and workplans, verifying the adequacy of reports, and determining the need to further investigate the impact to soil and groundwater as well as risk to human health and environment, and responding to public inquires about site investigations and cleanups as needed.

## **III. Billing Rate**

Attached are the Site Cleanup Program, Monthly Salary Scales by Job Classification (Attachment 1) for employees expected to perform the work and the Reimbursement Process for Regulatory Oversight (Attachment 2). The names and classifications of employees that charge time to this site will be listed on the invoices. The average billing rate is about \$150.00 per hour.

## **IV. Estimation of Expected Charges**

- A. Regional Board staff expects to charge about 40 hours for work related to this site during fiscal year 2010/2011. Based on the average billing rate of \$150.00 per hour, the estimated billing charge by the Regional Board staff for this site during this fiscal year is about \$6,000, which does not include possible contract charges stated in B (below). **Please note that this is neither a commitment nor a contract for regulatory oversight. It is only an estimate of the work, which may be performed.**
- B. To better evaluate the potential health risk from the detected or residual contaminants posed to the current/future occupants of the site and the immediate site vicinity, the Regional Board has established a contract with the State Office of Environmental Health Hazard Assessment (OEHHA), to have their toxicologists review the submitted health risk assessment reports. OEHHA will review, evaluate if appropriate, and provide comments on risk assessment reports. When requested, OEHHA toxicologists will provide the Regional Board consultation services on issues concerning human health and/or environmental risks.

Under the Cost Recovery Program, the responsible party (parties) is (are) required to reimburse the Regional Board for the cost incurred by OEHHA review. Occurred charges by OEHHA staff will be included in our invoices under the contract charges category. All quarterly invoices generated for this project will be sent to your provided billing contact by the Site Cleanup Program (SCP), State Water Resources Control Board.

## **V. Landowner Notification and Participation Requirements**

Pursuant to Division 7 of the Porter Cologne Water Quality Control Act under section 13307.1, the Regional Board is required to notify all current fee title holders for the subject site prior to considering corrective action or granting case closure. Therefore, you are required to provide the name, mailing address and telephone numbers for all record fee title holders for the site together with a copy of county record of current ownership, available from the County Recorder's Office, or complete the attached Certification Declaration Form (Attachment 3) and submit it to our office.

May 10, 2011

Please sign and return the enclosed landowner's information (Attachment 3) and "Acknowledgment of Receipt of Cost Reimbursement Account Letter" (Attachment 4) to Mr. Greg Bishop (case manager) of the Regional Board by May 31, 2011.

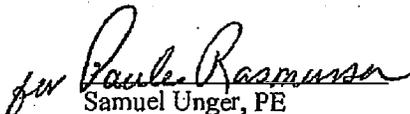
#### VI. Other Requirements

1. **Change of Ownership:** You must notify the Executive Officer, in writing at least 30 days in advance of any proposed transfer of this cost reimbursement account's responsibility to a new owner containing a specific date for the transfer. In addition, you shall notify the succeeding owner of the existence of this cost reimbursement account by letter, copy of which shall be forwarded to the Board.
2. **Public Participation:** With increased public interest in our programs and the public knowledge of threat to human health and the environment, the Regional Boards are increasing our effort in getting the public more involved in our decision making process. The Regional Boards are also required to involve the public in site cleanup decisions under State law (including Health & Safety Code section 25356.1). You may be required to prepare and implement a public participation plan. Regional Board staff will provide you with additional guidance as appropriate.
3. **Electronic Submittals:** In September 2004, the State Water Resources Control Board adopted regulations (Chapter 30, Division 3 of Title 23 & Division 3 of Title 27, California Code of Regulation) requiring the electronic submittal of information (ESI) for all site cleanup programs, starting January 1, 2005. Currently, all of the information on electronic submittals and Geotracker contacts can be found at [http://www.waterboards.ca.gov/ust/electronic\\_submittal](http://www.waterboards.ca.gov/ust/electronic_submittal).

Due to resource constrains at this time, we request that you continue to submit hard copies of all documents and data in addition to ESI to GeoTracker, until further notice.

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

Sincerely,

  
Samuel Unger, PE  
Executive Officer

#### Attachments:

1. Monthly Salary Scales by Job Classification
2. Reimbursement Process for Regulatory Oversight
3. Certification Declaration Form
4. Acknowledgment of Receipt of Cost Reimbursement Account Letter

**Attachment 1**

**SITE CLEANUP PROGRAM (SCP)  
BILLING COST EXPLANATION**

<b>Employee Salary and Benefits by Classification <sup>1</sup> ABR</b>	<b>SALARY SCALE</b>
Associate Governmental Program Analyst	AGPA 5,852 – 7,113
Engineering Geologist	EG 9,213 – 11,201
Environmental Scientist	ES 4,092 – 7,596
Office Assistant (G)	OA 2,758 – 3,684
Office Assistant (T)	OA 2,850 – 3,759
Office Technician (G)	OT 3,509 – 4,268
Office Technician (T)	OT 3,572 – 4,341
Principal Water Resources Control Engineer	PWRCE 13,090 – 14,434
Sanitary Engineering Associate	SEA 6,597 – 8,016
Sanitary Engineering Technician	SET 4,543 – 6,339
Senior Engineering, Water Resources	SWRCE 9,811 – 13,090
Senior Engineering Geologist	SEG 10,802 – 13,127
Senior Environmental Scientist	SRES 7,248 – 8,749
Senior Water Resources Control Engineer	SRWRCE 10,802 – 13,127
Staff Counsel	STCOUN 6,216 – 10,411
Staff Counsel III	STCOUNIII 10,217 – 12,606
Staff Counsel IV	STCOUNIV 11,286 – 13,934
Staff Environmental Scientist	SES 7,242 – 8,745
Student Assistant	SA 2,663 – 2,938
Student Assistant Engineer	SAE 2,663 – 3,985
Supervising Engineering Geologist	SUEG 10,769 – 13,090
Supervising Water Resources Control Engineer	SUWRCE 10,769 – 13,090
Water Resources Control Engineer	WRCE 7,883 – 11,144

**Operating Expenses and Equipment <sup>2</sup> (both Headquarters and Regional Board offices)**

Indirect Costs (Overhead – cost of doing business) 135%

**Billing Example**

Water Resources Control Engineer	
Salary:	\$ 11,144
Overhead (indirect costs):	\$ <u>15,044</u>
Total Cost per month	\$ 26,188.

Divided by 176 hours per month equals per hour: \$ 148.80  
(Due to the various classifications that expend SCP resources. An average of \$ 150.00 per hour can be used for projection purposes.)

<sup>1</sup> The name and classification of employees performing oversight work will be listed on the invoice you receive.

<sup>2</sup> The examples are estimates based on recent billings. Actual charges may be slightly higher or lower.

**REIMBURSEMENT PROCESS FOR REGULATORY OVERSIGHT**

We have identified your facility or property as requiring regulatory cleanup oversight. Pursuant to the Porter-Cologne Water Quality Control Act, reasonable costs for such oversight can be recovered by the Regional Water Quality Control Board (RWQCB) from the responsible party. The purpose of the enclosure is to explain the oversight billing process structure.

**INTRODUCTION**

The Porter-Cologne Water Quality Control Act authorizes the State Water Resources Control Board (SWRCB) to set up Cost Recovery Programs. The Budget Act of 1993 authorized the SWRCB to establish a Cost Recovery Program for Site Cleanup Program (SCP). The program is set up so that reasonable expenses incurred by the SWRCB and RWQCBs in overseeing cleanup of illegal discharges, contaminated properties, and other unregulated releases adversely impacting the State's waters can be reimbursed by the responsible party. Reasonable expenses will be billed to responsible parties and collected by the Fee Coordinator at the SWRCB in the Division of Financial Assistance (DFA).

**THE BILLING SYSTEM**

Each cost recovery account has a unique Site ID number assigned to it. Whenever any oversight work is done, the hours are entered into the SCP Cost Recovery/daily logs database. The cost of the staff hours is calculated by the State Accounting System based on the employee's salary and benefit rate and the SWRCB overhead rate.

SWRCB and RWQCB Administrative charges for work such as accounting, billing preparation, general program meetings and program specific training cannot be charged directly to an account. This work will be charged to Administrative accounting codes one per Region. The Accounting Office totals these administrative charges for the billing period and distributes them back to all of the accounts based on the number of hours charged to each account during that billing period. These charges show as State Board Program Administrative Charges and Regional Board Program Administrative Charges on the Invoice.

The current billing period charges will include associated labor costs, risk assessment contract charges, overhead charges, SWRCB/DFA Administrative charges, and RWQCB Administrative charges. The overhead charges are based on the number of labor hours charged to the account. The overhead charges consist of rent, utilities, travel, supplies, training, and accounting services. Most of these charges are paid in arrears. The Accounting Office keeps track of these charges and distributes them back monthly to only those accounts having Labor hours charged to them for the period being billed. No site will be billed for overhead during a billing period unless Labor hours have been posted to the RWQCB employee's daily logs residing in the SCP Cost Recovery database.

Invoices are issued quarterly, one quarter in arrears. If a balance is owed, a check is to be remitted to the SWRCB with the invoice remittance stub within 30 days after receipt of the invoice. The Fee Coordinator inputs a record of all checks received directly or by the Accounting Office on a daily basis.

## ATTACHMENT 2

Copies of the invoices are sent to the appropriate RWQCBs so that they are aware of the oversight work invoiced. Questions regarding the work performed should be directed toward your RWQCB case worker.

### **DISPUTE RESOLUTION**

If a dispute regarding oversight charges cannot be resolved with the RWQCB, Section 13320 of the California Water Code provides a process whereby persons may petition the SWRCB for review of RWQCB decisions. Regulations implementing Water Code Section 13320 are found in the Title 23 of the California Code of Regulations, Section 2050.

### **DAILY LOGS**

A detailed description (daily log) of the actual work being done at each specific site is kept by each employee in the Regional Water Board who works on the cleanup oversight at the property. This information is provided on the quarterly invoice using standardized work activity codes to describe the work performed. *Upon request, a more detailed description of the work performed is available from the RWQCB staff.*

### **REMOVAL FROM THE BILLING SYSTEM**

After the cleanup is complete, the RWQCB will submit a closure form to the SWRCB to close the account. If a balance is due, the Fee Coordinator will send a final billing for the balance owed. The responsible party should then submit a check to the SWRCB to close the account.

### **AGREEMENT**

No cleanup oversight will be performed unless the responsible party of the property has agreed in writing to reimburse the State for appropriate cleanup oversight costs and submitted to the RP. You may wish to consult an attorney in this matter. As soon as the letter is received, the account will be added to the active Site Cleanup program Cost Recovery billing list and oversight work will begin.



# California Regional Water Quality Control Board

## Los Angeles Region



**Linda S. Adams**  
Acting Secretary for  
Environmental Protection

320 W. 4th Street, Suite 200, Los Angeles, California 90013  
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

**Edmund G. Brown Jr.**  
Governor

### ATTACHMENT 3

#### CERTIFICATION DECLARATION FOR COMPLIANCE WITH FEE TITLE HOLDER NOTIFICATION REQUIREMENTS (California Water Code Section 13307.1)

Please Print or Type

Fee Title Holder(s): \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Telephone Number / Fax Number: \_\_\_\_\_

Site Name: \_\_\_\_\_

Address: \_\_\_\_\_

County Assessor Parcel Number (APN): \_\_\_\_\_

Contact Person: \_\_\_\_\_

Telephone Number / Fax Number: \_\_\_\_\_

File Number: SCP No. 1260

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations." (See attached page for who shall sign the Certification Declaration).

\_\_\_\_\_  
Printed Name of Person Signing

\_\_\_\_\_  
Official Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date Signed

*California Environmental Protection Agency*



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

The certification declaration form must be signed as follows:

1. For a corporation - by a responsible corporate officer, which means; (i) by a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy of decision making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
2. For a partnership or sole proprietorship - by a general partner or the proprietor respectively.
3. For a municipality, state, federal, or public agency - by either a principal executive officer or ranking elected official. A principal executive officer of a federal agency includes (i) the chief executive officer of the agency or (ii) a senior executive officer having responsibility for the overall operations or a principal geographic unit.

*California Environmental Protection Agency*



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



# California Regional Water Quality Control Board

## Los Angeles Region



Linda S. Adams  
Acting Secretary for  
Environmental Protection

320 W. 4th Street, Suite 200, Los Angeles, California 90013  
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

Edmund G. Brown Jr.  
Governor

ATTACHMENT 4

### ACKNOWLEDGEMENT OF RECEIPT OF OVERSIGHT COST REIMBURSEMENT ACCOUNT LETTER

I, \_\_\_\_\_, acting within the authority vested in me as an authorized representative of \_\_\_\_\_, a corporation, acknowledge that I have received and read a copy of the attached *REIMBURSEMENT PROCESS FOR REGULATORY OVERSIGHT* and the cover letter dated May 10, 2011, concerning cost reimbursement for Regional Board staff costs involved with oversight of cleanup and abatement associated with the **Dominguez Channel release in Carson, California in Los Angeles County**. The release is occurring within the Dominguez Channel, approximately 400 feet south of Carson Street in Carson, California.

I understand the reimbursement process and billing procedures as explained in the letter. Our company is willing to participate in the cost recovery program and pay all subsequent billings in accordance with the terms in your letter and its attachments, *and to the extent required by law*. I also understand that signing this form does not constitute any admission of liability, but rather only an intent to pay for costs associated with oversight, *as set forth above, and to the extent required by law*. Billings for payment of oversight costs should be mailed to the following individual and address:

**BILLING COMPANY** \_\_\_\_\_

**BILLING CONTACT** \_\_\_\_\_

**BILLING ADDRESS** \_\_\_\_\_

**TELEPHONE NO.** \_\_\_\_\_ **E-Mail** \_\_\_\_\_

**RESPONSIBLE PARTY'S SIGNATURE** \_\_\_\_\_ (Signature)

\_\_\_\_\_ (Title)

**DATE:** \_\_\_\_\_

**SCP NO. 1260**

**SITE ID NO.**

*California Environmental Protection Agency*



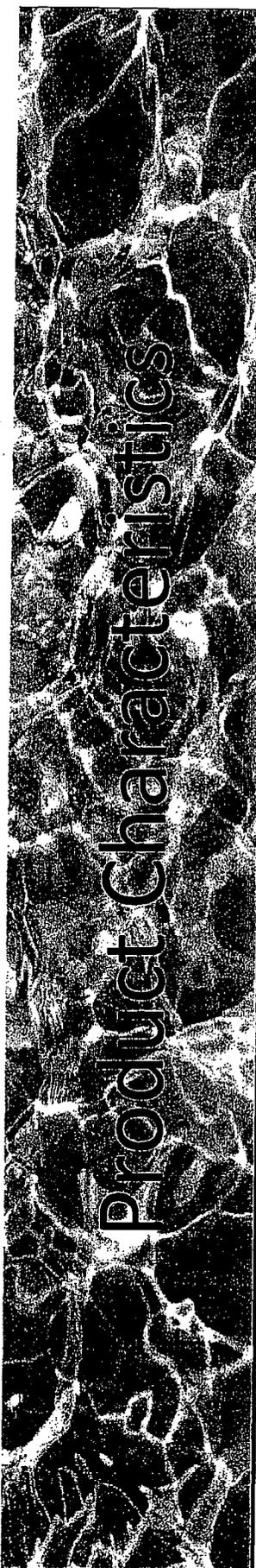
*Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.*

# Exhibit 3

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# Exhibit 3

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# Product Characteristics

United States Coast Guard  
Marine Safety Laboratory  
Oil Spill Identification Report

11-125

Requestor: U. S. EPA Region IX

Unit Case/Activity Number: E11908

Received: 15-Feb-11

Via: Federal Express 8710 1056 5463

## RESULTS:

1. Sample 11-125-1 was specified to be representative of spilled oil. Analysis indicates this sample contains gasoline mixed with traces of heavier petroleum oil. It is not possible based on the analysis conducted to determine if the heavier petroleum product is lubricating oil or a degraded fuel oil due to the limited quantity of product in the sample.

# Exhibit 4

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# Exhibit 4

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## **CRIMSON PIPELINE L.P.**

2459 Redondo Avenue  
Long Beach, CA 90755-4020

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May 6, 2011

Mr. Greg Bishop, P.G.  
Engineering Geologist  
Regional Water Quality Control Board – Los Angeles Region  
320 W. 4<sup>th</sup>  
Los Angeles, CA 90013

Subject: Requirement for Technical Report  
Dominguez Channel  
Carson, California

Dear Mr. Bishop:

Crimson Pipeline L.P. (Crimson) is in receipt of the Regional Water Quality Control Board's (RWQCB) letter of April 26, 2011 concerning the subject site (Site). Crimson does own an idle crude oil pipeline which parallels and is adjacent to the Dominguez Channel in the vicinity of the Site. The pipeline is known as the Dominguez Gathering pipeline. It is a 6-inch diameter crude oil pipeline originally constructed by Unocal.

Our records indicate that this pipeline was previously in crude oil service only and that the pipeline has been emptied of all crude oil, purged with nitrogen, and has been in an idle status since 1999. The pipeline was idled as a result of the shutdown of the crude oil production sites connected to the pipeline. A review of our records did not find any reports or documents indicating that the pipeline ever had a release in the vicinity of the subject site.

Crimson is in the process of conducting further integrity evaluations of the pipeline. We believe that these evaluations will support our position that this pipeline is not a contributory source to the petroleum hydrocarbons referenced in the Order. Further, it should be noted that this pipeline only transported crude oil and would therefore, not be a likely contributor to the "gasoline-range" or other refined petroleum products referenced in the Order.

Upon completion of our evaluations, Crimson will provide a report to the RWQCB of our findings. However, at this time, we believe that preparing a Work Plan to

delineate the vertical and lateral extent of petroleum impacts of the Dominguez Channel is unnecessary as our records indicate that it is unlikely that this pipeline is a contributor to the petroleum hydrocarbons present in the Dominguez Channel.

Sincerely,

A handwritten signature in black ink, appearing to read 'LW Alexander', written in a cursive style.

Larry Alexander  
President

COX, CASTLE & NICHOLSON LLP  
PERRY S. HUGHES (STATE BAR NO: 167784)  
phughes@coxcastle.com  
2049 Century Park East  
28th Floor  
Los Angeles, CA 90067-3284  
Telephone: (310) 277-4222  
Facsimile: (310) 277-7889

Attorneys for Petitioner CRIMSON PIPELINE, L.P.

**BEFORE THE STATE WATER RESOURCES CONTROL BOARD**

In the Matter of Appeal of Water Code Section  
13267 Order for Technical Report Pursuant to  
Water Code Section 13267

VIA: Electronic Submission with Hardcopy to  
Follow

**DECLARATION OF LARRY  
ALEXANDER IN SUPPORT OF  
PETITION FOR REVIEW AND  
REQUEST FOR STAY OF ORDER**

I, Larry Alexander, declare as follows:

1. I am the President of Crimson Pipeline, L.P. ("Petitioner"). The facts stated in this Declaration are true of my personal knowledge, and if called as a witness to testify, I could and would competently do so to each fact stated.
2. The Order for Technical Report Pursuant to Water Code Section 13267 ("Order") was issued to Petitioner on the basis of its ownership of a petroleum facility in the vicinity of a site within the Dominquez Channel ("Site"). Petitioner owns an idle crude oil pipeline adjacent to the Site. The pipeline was acquired by Petitioner in 2007. The pipeline was taken out of service, emptied of crude oil, nitrogen purged and sealed by its former owner in 1999.
3. There is no evidence of a discharge from the pipeline. The records of former owners contain no evidence of any leak or other release from the pipeline during its operation. Petitioner is conducting tests to confirm the integrity of the pipeline.

4. The pipeline connected crude oil production locations to a crude oil pipeline during its operation. Crude oil is the only substance that was transported or could have been transported through the pipeline. The records of the former owner and its predecessors establish the pipeline transported crude oil and no other substance.

5. The substance found at the site is light non-aqueous phase liquid ("LNAPL"). LNAPL could not have originated from a release of crude oil. The pipeline could not have been the source of a release of LNAPL during its operation.

6. In order for Petitioner's pipeline to have been use to transport products that could be a source of LNAPL, such as gasoline or jet fuel, the pipeline would have had to be registered with the California State Fire Marshal as a jurisdictional pipeline. The California State Fire Marshall has no records of the registration the pipeline as a products pipeline.

7. The Regional Board contends it has found "smaller fractions of heavier-end (diesel- and oil range) hydrocarbons" at the Site. This contention is based primarily on a single sample taken at the Site. The analytical "Results" for the referenced sample states "[i]t is not possible based on the analysis conducted to determine if the heavier petroleum product is lubricating oil or a degraded fuel oil due to the limited quantity of product in the sample." A copy of the Results is attached to the Petition as Exhibit 3. Lubricating oil and fuel oil are refined products that are not transported in crude oil pipelines. The analytical data contradicts the Regional Board's contention that this sample may have contained crude oil. The Regional Board has no analytical data supporting its claim that a sample contained crude oil.

8. The method used to collect that sample may have allowed contamination of the sample with hydrocarbon molecules from sediments in the Dominguez Channel from sources other than release that is the subject of the Order.

9. The Regional Board contends that it observed products that could be crude oil in drains at the Site. Such products may be residue from LNAPL or other refined hydrocarbons, such as lubricating oil or fuel oil. The mere presence of a "dark brown to black and translucent" substance containing hydrocarbons is not proof of a release of crude oil.

10. Petitioner's pipeline is adjacent to an active crude oil pipeline. Despite it being an active pipeline, the Regional Board has not issued a similar order to the operator of that pipeline. Instead, the Regional Board has allowed the operator to conduct integrity assessment on their pipeline rather than pursue the investigation requested of Petitioner. ~~Petitioner is merely seeking similar treatment from the Regional Board.~~ There are additional active crude oil pipelines in the vicinity of the Site. Assuming crude oil is present in the Release, which Petitioner does not admit, Petitioner's idle pipeline is the least probable source of such crude oil.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct, and that this declaration was executed in Long Beach, California.

DATED: May 26, 2011

By: \_\_\_\_\_

  
Larry Alexander  
President of Crimson Pipeline, L.P.

COXCASTLE NICHOLSON

Cox, Castle & Nicholson LLP  
2049 Century Park East, 28<sup>th</sup> Floor  
Los Angeles, California 90067-3284  
P 310.277.4222 F 310.277.7889

Facsimile Transmission

URGENT

Date: May 26, 2011

Sender: Perry S. Hughes  
Direct 310.284.2276  
phughes@coxcastle.com

Secretary: Sharon Moers  
310.284.2188 ext. 2559

Pages: (incl. cover) 33

File: 99129/Crimson/RWQCB

Recipient:

State Water Resources Control Board  
Office of Chief Counsel  
Jeannette L. Bashaw, Legal Analyst  
(916) 341-5199 F

Regional Water Quality Control Board - Los Angeles Region  
Mr. Greg Bishop, P.G., Engineering Geologist  
(213) 576-6640 F  
(213) 576-6600 P

Regional Water Quality Control Board - Los Angeles Region  
Mr. Samuel Unger, P.E., Executive Officer  
(213) 576-6640 F  
(213) 576-6600 P

7  
Message:

COX, CASTLE & NICHOLSON LLP  
PERRY S. HUGHES (STATE BAR NO. 167784)  
phughes@coxcastle.com  
2049 Century Park East  
28th Floor  
Los Angeles, CA 90067-3284  
Telephone: (310) 277-4222  
Facsimile: (310) 277-7889

Attorneys for Petitioner CRIMSON PIPELINE, L.P.

**BEFORE THE STATE WATER RESOURCES CONTROL BOARD**

In the Matter of Appeal of Water Code Section  
13267 Order for Technical Report Pursuant to  
Water Code Section 13267

VIA: Electronic Submission with Hardcopy to  
Follow

**PETITION FOR REVIEW AND  
REQUEST FOR STAY OF ORDER**

Pursuant to Section 13320 of California Water Code and Section 2050 of Title 23 of the California Code of Regulations (CCR), CRIMSON PIPELINE, L.P. ("Petitioner") petitions the State Water Resources Control Board ("State Board") to review and vacate or amend the Order for Technical Report Pursuant to Water Code Section 13267 issued April 26, 2011 ("Order") of the California Regional Water Quality Control Board for the Los Angeles Region ("Regional Board") which ordered Petitioner to submit a work plan to delineate the vertical and lateral extent of petroleum at a site within the Dominguez Channel in Carson, approximately 400 feet South of Carson Street ("Site"). The Order specifies that the work plan "be prepared with the intent of determining (1) extent of petroleum impact from the Site and (2) if your facility has contributed to the release in the Dominguez Channel." However, the Order is not based on any credible evidence and is inconsistent with the manner in which the Regional Board has treated other similarly situated parties in the area. Petitioner requests the Order be stayed pending review due to substantial costs that would be incurred by Petitioner pending this review. Additionally, Petitioner requests that the State Board vacate, or in

the alternative, stay the requirements of the Site Cleanup Program Oversight Cost Reimbursement Letter issued to Petitioner and dated May 10, 2011 ("Letter").

The issues raised in this petition were raised in timely written request to reconsider the Order. Moreover, the relief requested herein will not interfere with the investigation of the Site because the Region Board has issued orders to other, more appropriate parties that, unlike Petitioner, are known to have used, stored and transported the hazardous materials at issue in this matter.

**1. NAME AND ADDRESS OF THE PETITIONERS:**

Crimson Pipeline, L.P.  
2459 Redondo Avenue  
Long Beach, CA 90755  
Attn: Larry Alexander

**2. THE SPECIFIC ACTION OR INACTION OF THE REGIONAL BOARD WHICH THE STATE BOARD IS REQUIRED TO REVIEW AND A COPY OF ANY ORDER OR RESOLUTION OF THE REGIONAL BOARD WHICH IS REFERRED TO IN THE PETITION:**

Petitioner seeks review of Order for Technical Report Pursuant to Water Code Section 13267, dated April 26, 2011 ("Order"). A copy of the Order is attached hereto, and filed concurrently, as Exhibit 1. Petitioner also seeks relief from the Site Cleanup Program Oversight Cost Reimbursement Letter issued to Petitioner and dated May 10, 2011 ("Letter"). A copy of the Letter is attached hereto, and filed concurrently, as Exhibit 2.

**3. THE DATE ON WHICH THE REGIONAL BOARD ACTED OR REFUSED TO ACT OR ON WHICH THE REGIONAL BOARD WAS REQUESTED TO ACT:**

April 26, 2011.

**4. A FULL AND COMPLETE STATEMENT OF THE REASONS THE ACTION OR FAILURE TO ACT WAS INAPPROPRIATE OR IMPROPER:**

Petitioner contends that the following actions by the Regional Board were improper and lacked merit:

1. The Order is issued to Petitioner under Water Code Section 13267. The Order is issued to Petitioner on the basis of its ownership of a petroleum facility in the vicinity of the Site. Petitioner owns an idle crude oil pipeline adjacent to the Dominguez Channel. The pipeline was

acquired by Petition in 2007. The pipeline was taken out of service, emptied of crude oil, nitrogen purged and sealed by its former owner in 1999.

2. There is no evidence of a discharge from the pipeline. The records of former owners contain no evidence of any leak or other release from the pipeline during its operation.

Petitioner is conducting tests to confirm the integrity of the pipeline. In the absence of any evidence of a release of crude oil from the pipeline, Petitioner cannot be held responsible for the release at the Site.

3. The pipeline connected crude oil production locations to a crude oil pipeline during its operation. Crude oil is the only substance that was transported or could have been transported through the pipeline. The records of the former owner and its predecessors establish the pipeline transported crude oil and no other substance.

4. The substance found at the site is light non-aqueous phase liquid ("LNAPL"). LNAPL could not have originated from a release of crude oil. The pipeline could not have been the source of a release of LNAPL during its operation.

5. In order for Petitioner's pipeline to have been use to transport products that could be a source of LNAPL, such as gasoline or jet fuel, the pipeline would have had to be registered with the California State Fire Marshal as a jurisdictional pipeline. The California State Fire Marshall has no records of the registration the pipeline as a products pipeline.

6. The Regional Board contends it has found "smaller fractions of heavier-end (diesel- and oil range) hydrocarbons" at the Site. This contention is based primarily on a single sample taken at the Site. The analytical "Results" for the referenced sample states "[i]t is not possible based on the analysis conducted to determine if the heavier petroleum product is lubricating oil or a degraded fuel oil due to the limited quantity of product in the sample." A copy of the Results is attached hereto, and filed concurrently, as Exhibit 3. Lubricating oil and fuel oil are refined products that are not transported in crude oil pipelines. The analytical data contradicts the Regional Board's contention that this sample may have contained crude oil. The Regional Board has no analytical data supporting its claim that a sample contained crude oil.

7. The method used to collect that sample may have allowed contamination of the sample with hydrocarbon molecules from sediments in the Dominguez Channel from sources other than release that is the subject of the Order.

8. The Regional Board contends that it observed products that could be crude oil in drains at the Site. Such products may be residue from LNAPL or other refined hydrocarbons, such as lubricating oil or fuel oil. The mere presence of a "dark brown to black and translucent" substance containing hydrocarbons is not proof of a release of crude oil.

9. The Regional Board has no credible or scientifically valid evidence to support its contention that crude oil is a constituent of the release.

10. Petitioner's pipeline is adjacent to an active crude oil pipeline. Despite it being an active pipeline, the Regional Board has not issued a similar order to the operator of that pipeline. Instead, the Regional Board has allowed the operator to conduct integrity assessment on their pipeline rather than pursue the investigation requested of Petitioner. Petitioner is merely seeking similar treatment from the Regional Board. There are additional active crude oil pipelines in the vicinity of the Site. Assuming crude oil is present in the Release, which Petitioner does not admit, Petitioner's idle pipeline is the least probable source of such crude oil.

#### 5. THE MANNER IN WHICH THE PETITIONS ARE AGGRIEVED.

The Petitioner is being ordered to investigate and remediate contamination for which it is not responsible and for which it could not have been responsible. The Regional Board lacks any basis to suspect Petitioner's idle pipeline is the source of any release at the Site. The Order and Letter are premature until the Regional Board has evidence that Petitioner's pipeline is contributed to the release or could have contributed to the release.

Petitioner will be aggrieved if it is compelled expend funds and resources to prepare and implement a work plan for investigation of the Site or is compelled to respond to the Letter and contribute to the costs of any investigations. Petitioner requests that the State Board vacate the Order and Letter or stay the Order and Letter until Petitioner completes its integrity testing and the Regional Board has an opportunity to reconsider its Order and Letter on the basis of those results.

**6. THE SPECIFIC ACTION BY THE STATE OR REGIONAL BOARD WHICH PETITIONER REQUESTS.**

The Petitioners seek an immediate stay of the Order and Letter, while the Board reviews this Petition.

Further, the Petitioners seek the following action:

- 1) The Petitioner respectfully requests that the Board vacate the Order and Letter.
- 2) In the alternative, the Petitioners request that the Board amend the Order in the following manner:
  - a) limit the requirement of the Petitioner to conducting integrity testing of its pipeline;
  - b) withdraw the requirement to conduct any additional activity until such testing is completed; and
  - c) release Petitioner from the requirements of the Letter until the integrity testing is completed.

**7. A STATEMENT OF POINTS AND AUTHORITIES IN SUPPORT OF LEGAL ISSUES RAISED IN THE PETITION.**

Water Code section 13267 confers authority on Regional Boards to issue orders only to "any person who has discharged, discharges, or is suspected of having discharged or, discharging, or who proposes to discharge waste into its region . . ." California Water Code section 13267.

The Regional Board has no factual support for its contention that Petitioner's pipeline may have transported any substance other than crude oil. The Regional Board lacks credible scientific evidence to support its contention that crude oil is a constituent of the release at the Site. Therefore, the Regional Board had no factual basis to attribute the discharge at the Site to Petitioner or to suspect that Petitioner's pipeline is the source of that discharge.

As established in prior State Board precedent cited in the Regional Board's Order, the Regional Board must show "substantial evidence" to name a party as a discharger. See WQ 86-16 (*Stinnes-Western Chemical Corp.*) and WQ 85-7 (*Exxon*). The Regional Board has no factual support for its conclusion that the current release is the result of a discharge from Petitioner's long-idled pipeline. Therefore, the Regional Board has no authority to issue the Order or the Letter.

**8. A STATEMENT THAT THE PETITION HAS BEEN SENT TO THE APPROPRIATE REGIONAL BOARD AND TO THE DISCHARGERS, IF NOT THE PETITIONER.**

A true and correct copy of this Petition and all supporting documentation were sent via overnight delivery and electronically to:

- 1) State Water Resources Control Board  
Office of Chief Counsel  
Jeannette L. Bashaw, Legal Analyst  
P.O. Box 100  
Sacramento, CA 95812-0100  
jbashaw@waterboards.ca.gov
- 2) Regional Water Quality Control Board – Los Angeles Region  
Mr. Greg Bishop, P.G.  
Engineering Geologist  
320 W. 4th Street, Los Angeles, CA 90013  
gbishop@waterboards.ca.gov
- 3) Regional Water Quality Control Board – Los Angeles Region  
Mr. Samuel Unger, P.E.  
Executive Officer  
320 W. 4th Street, Los Angeles, CA 90013  
sunger@waterboards.ca.gov

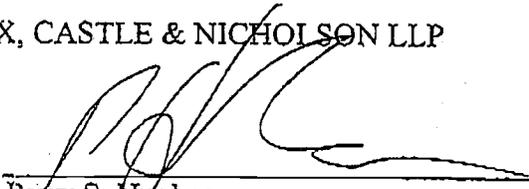
**9. A STATEMENT THAT THE ISSUES RAISED IN THE PETITION WERE PRESENTED TO THE REGIONAL BOARD BEFORE THE REGIONAL BOARD ACTED, OR AN EXPLANATION OF WHY THE PETITIONER COULD NOT RAISE THOSE OBJECTIONS BEFORE THE REGIONAL BOARD.**

The issues raised in the Petition were first presented to the Regional Board in Petitioner' letter to the Regional Board dated May 6, 2011, attached hereto as Exhibit 4, in which Petitioner requested reconsideration of the Order and stated grounds for reconsideration. Additionally, Petitioner has raised the issued set forth in the Petition in multiple conversations with staff members

of the Regional Board. Petitioner's request for reconsideration was denied by a letter from the Regional Board dated May 23, 2011.

DATED: May 26, 2011

COX, CASTLE & NICHOLSON LLP

By: 

Perry S. Hughes

Attorneys for Petitioners Crimson Pipeline, L.P.

# Exhibit 1

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# Exhibit 1

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# 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

Mr. Mike Romley  
Crimson Pipeline  
2459 Redondo Avenue  
Long Beach, CA 90755

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

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

Dear Mr. Romley:

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*

Mr. Mike Romley  
Crimson Pipeline

- 2 -

April 26, 2011

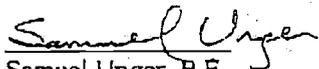
We have determined that, to protect the beneficial uses of the waters beneath the Site, an assessment of the full extent of impacts to the subsurface from the identified contaminants of concern is required.

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](mailto:gbishop@waterboards.ca.gov).

Sincerely,

  
Samuel Unger, P.E.  
Executive Officer

Enclosure



# California Regional Water Quality Control Board Los Angeles Region



Linda S. Adams  
Acting Secretary for  
Environmental Protection

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 13267<sup>1</sup>)

DIRECTED TO "CRIMSON PIPELINE"

FORMER UNION OIL PIPELINE  
WITHIN PERRY STREET, BENEATH ACTIVE RV (1202 E. CARSON STREET), AND  
ADJACENT TO THE DOMINGUEZ CHANNEL  
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.

<sup>1</sup> 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.

Mr. Mike Romley  
Crimson Pipeline

- 2 -

April 26, 2011

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. 4<sup>th</sup> 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:

[http://www.waterboards.ca.gov/water\\_issues/programs/ust/electronic\\_submittal](http://www.waterboards.ca.gov/water_issues/programs/ust/electronic_submittal).

Mr. Mike Romley  
Crimson Pipeline

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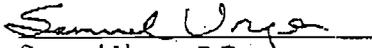
April 26, 2011

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\\_noticcs/petitions/water\\_quality](http://www.waterboards.ca.gov/public_noticcs/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

No.	City	Company Name	Address	City	State	Zip	Phone	Email	Notes
1	Alhambra	Alhambra	15301 Doheny Way	La Brea	CA	90033	714-995-4178	emp@alham.com	Carson Union Oil pipeline within 600 feet of Carson Street, between Adams St. and adjacent to the Dominguez Channel. Underground storage tanks located at the site. Information for this release is located in the file dated 04/26/11. Groundwater samples collected and detected TCE up to 640,000 ug/L, benzene up to 17,000 ug/L, and TBA up to 18,000 ug/L.
2	Haltom	Corona	3300 Kemp Airport Way, Suite 210	Long Beach	CA	90806	562-795-1777	hally@corona.com	Carson Union Oil pipeline within 600 feet of Carson Street, between Adams St. and adjacent to the Dominguez Channel. Underground storage tanks located at the site. Information for this release is located in the file dated 04/26/11. Groundwater samples collected and detected TCE up to 640,000 ug/L, benzene up to 17,000 ug/L, and TBA up to 18,000 ug/L.
3	Alhambra	Alhambra	1419 Redondo Avenue	Long Beach	CA	90715	562-952-8463	mjohnst@alham.com	Carson Union Oil pipeline within 600 feet of Carson Street, between Adams St. and adjacent to the Dominguez Channel. Underground storage tanks located at the site. Information for this release is located in the file dated 04/26/11. Groundwater samples collected and detected TCE up to 640,000 ug/L, benzene up to 17,000 ug/L, and TBA up to 18,000 ug/L.
4	Los Angeles	Shelton Industries	10814 S. Wilmington Avenue	Carson	CA	90810-1039	818-591-5316	support@shelton.com	Carson Union Oil pipeline within 600 feet of Carson Street, between Adams St. and adjacent to the Dominguez Channel. Underground storage tanks located at the site. Information for this release is located in the file dated 04/26/11. Groundwater samples collected and detected TCE up to 640,000 ug/L, benzene up to 17,000 ug/L, and TBA up to 18,000 ug/L.
5	Carson	Carson	1310 L Street East	Long Beach	CA	90747-2511	562-777-3622		Carson Union Oil pipeline within 600 feet of Carson Street, between Adams St. and adjacent to the Dominguez Channel. Underground storage tanks located at the site. Information for this release is located in the file dated 04/26/11. Groundwater samples collected and detected TCE up to 640,000 ug/L, benzene up to 17,000 ug/L, and TBA up to 18,000 ug/L.
6	Carson	Carson	1311 Market Road	Long Beach	CA	90803	562-777-3622		Carson Union Oil pipeline within 600 feet of Carson Street, between Adams St. and adjacent to the Dominguez Channel. Underground storage tanks located at the site. Information for this release is located in the file dated 04/26/11. Groundwater samples collected and detected TCE up to 640,000 ug/L, benzene up to 17,000 ug/L, and TBA up to 18,000 ug/L.
7	Alhambra	Alhambra	1409 Seaview	Long Beach	CA	90803	562-777-3622		Carson Union Oil pipeline within 600 feet of Carson Street, between Adams St. and adjacent to the Dominguez Channel. Underground storage tanks located at the site. Information for this release is located in the file dated 04/26/11. Groundwater samples collected and detected TCE up to 640,000 ug/L, benzene up to 17,000 ug/L, and TBA up to 18,000 ug/L.
8	Carson	Carson	1311 Market Road	Long Beach	CA	90803	562-777-3622		Carson Union Oil pipeline within 600 feet of Carson Street, between Adams St. and adjacent to the Dominguez Channel. Underground storage tanks located at the site. Information for this release is located in the file dated 04/26/11. Groundwater samples collected and detected TCE up to 640,000 ug/L, benzene up to 17,000 ug/L, and TBA up to 18,000 ug/L.

Legend:  
 UST Underground Storage Tank Program  
 SCP Spill Cleanup Program  
 TCE Total Petroleum Hydrocarbons (Solvent Base)  
 THF Total Petroleum Hydrocarbons (Non-Solvent Base)  
 TBA Total Petroleum Hydrocarbons (Aromatic)  
 TBA Total Petroleum Hydrocarbons (Aromatic)  
 USTP Underground Storage Tank Program

# Exhibit 2

# Exhibit 2



# California Regional Water Quality Control Board Los Angeles Region



Linda S. Adams  
Acting Secretary for  
Environmental Protection

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

May 10, 2011

Mr. Mike Romley  
Crimson Pipeline  
2459 Redondo Avenue  
Long Beach, CA 90755

RECEIVED ON  
MAY 13 2011  
BY: CRIMSON PIPELINE L.P.

**SUBJECT: SITE CLEANUP PROGRAM OVERSIGHT COST REIMBURSEMENT ACCOUNT**

**SITE/CASE: DOMINGUEZ CHANNEL RELEASE, CARSON, CALIFORNIA (SCP NO. 1260)**

Dear Mr. Romley:

The California Regional Water Quality Control Board (Regional Board), Los Angeles Region, is the public agency with primary responsibility for the protection of ground and surface water quality for all beneficial uses within major portions of the Los Angeles and Ventura Counties, including the referenced site.

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 in the vicinity of your petroleum infrastructure. 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. On April 26, 2011, this Regional Board issued a California Water Code (CWC) Section 13267 Order to you to provide a work plan to investigate the extent to which your facility may have impacted the subsurface in the vicinity of the release.

Section 13304 of the CWC (Porter Cologne Act) allows the Regional Board to recover reasonable expenses from a responsible party or parties for overseeing the investigation and cleanup of unregulated discharges adversely affecting the State's waters. In compliance with Section 13365 of the California Water Code, this letter is being sent to provide you the following information regarding costs for regulatory oversight work.

**I. Estimate of Work To be Performed**

The Regional Board staff estimates that during the Regional Board's 2010/2011 fiscal year (July 1, 2010 to June 30, 2011), regulatory oversight work may include but not limited to the following tasks to be performed at the site:

1. Review technical reports and determine if the contamination sources and plumes are fully delineated vertically and laterally;
2. Request and review of additional assessment workplans and reports, detailed remediation design and installation plan, progress and monitoring reports, risk assessment workplans and reports, and other technical reports as necessary;
3. Prepare comment letters on various reports and communicate findings to responsible parties;

*California Environmental Protection Agency*



Mr. Mike Romley  
SCP Case: 1260

- 2 -

May 10, 2011

4. Conduct site inspections, collect split samples, and attend meetings with environmental consultants and responsible parties; and
5. Conduct internal and external communications (i.e. meetings, memos) about or related to the site.

## II. Statement of Expected Outcome

The expected outcome of work that will be performed includes providing written comments on the submitted reports and workplans, verifying the adequacy of reports, and determining the need to further investigate the impact to soil and groundwater as well as risk to human health and environment, and responding to public inquires about site investigations and cleanups as needed.

## III. Billing Rate

Attached are the Site Cleanup Program, Monthly Salary Scales by Job Classification (Attachment 1) for employees expected to perform the work and the Reimbursement Process for Regulatory Oversight (Attachment 2). The names and classifications of employees that charge time to this site will be listed on the invoices. The average billing rate is about \$150.00 per hour.

## IV. Estimation of Expected Charges

- A. Regional Board staff expects to charge about 40 hours for work related to this site during fiscal year 2010/2011. Based on the average billing rate of \$150.00 per hour, the estimated billing charge by the Regional Board staff for this site during this fiscal year is about \$6,000, which does not include possible contract charges stated in B (below). **Please note that this is neither a commitment nor a contract for regulatory oversight. It is only an estimate of the work, which may be performed.**
- B. To better evaluate the potential health risk from the detected or residual contaminants posed to the current/future occupants of the site and the immediate site vicinity, the Regional Board has established a contract with the State Office of Environmental Health Hazard Assessment (OEHHA), to have their toxicologists review the submitted health risk assessment reports. OEHHA will review, evaluate if appropriate, and provide comments on risk assessment reports. When requested, OEHHA toxicologists will provide the Regional Board consultation services on issues concerning human health and/or environmental risks.

Under the Cost Recovery Program, the responsible party (parties) is (are) required to reimburse the Regional Board for the cost incurred by OEHHA review. Occurred charges by OEHHA staff will be included in our invoices under the contract charges category. All quarterly invoices generated for this project will be sent to your provided billing contact by the Site Cleanup Program (SCP), State Water Resources Control Board.

## V. Landowner Notification and Participation Requirements

Pursuant to Division 7 of the Porter Cologne Water Quality Control Act under section 13307.1, the Regional Board is required to notify all current fee title holders for the subject site prior to considering corrective action or granting case closure. Therefore, you are required to provide the name, mailing address and telephone numbers for all record fee title holders for the site together with a copy of county record of current ownership, available from the County Recorder's Office, or complete the attached Certification Declaration Form (Attachment 3) and submit it to our office.

*California Environmental Protection Agency*

Mr. Mike Romley  
SCP Case: 1260

- 3 -

May 10, 2011

Please sign and return the enclosed landowner's information (Attachment 3) and "Acknowledgment of Receipt of Cost Reimbursement Account Letter" (Attachment 4) to Mr. Greg Bishop (case manager) of the Regional Board by **May 31, 2011**.

**VI. Other Requirements**

1. **Change of Ownership:** You must notify the Executive Officer, in writing at least 30 days in advance of any proposed transfer of this cost reimbursement account's responsibility to a new owner containing a specific date for the transfer. In addition, you shall notify the succeeding owner of the existence of this cost reimbursement account by letter, copy of which shall be forwarded to the Board.
2. **Public Participation:** With increased public interest in our programs and the public knowledge of threat to human health and the environment, the Regional Boards are increasing our effort in getting the public more involved in our decision making process. The Regional Boards are also required to involve the public in site cleanup decisions under State law (including Health & Safety Code section 25356.1). You may be required to prepare and implement a public participation plan. Regional Board staff will provide you with additional guidance as appropriate.
3. **Electronic Submittals:** In September 2004, the State Water Resources Control Board adopted regulations (Chapter 30, Division 3 of Title 23 & Division 3 of Title 27, California Code of Regulation) requiring the electronic submittal of information (ESI) for all site cleanup programs, starting January 1, 2005. Currently, all of the information on electronic submittals and Geotracker contacts can be found at [http://www.waterboards.ca.gov/usi/electronic\\_submittal](http://www.waterboards.ca.gov/usi/electronic_submittal).

Due to resource constrains at this time, we request that you continue to submit hard copies of all documents and data in addition to ESI to GeoTracker, until further notice.

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

Sincerely,

*for Paul Rasmussen*  
 Samuel Unger, PE  
 Executive Officer

**Attachments:**

1. Monthly Salary Scales by Job Classification
2. Reimbursement Process for Regulatory Oversight
3. Certification Declaration Form
4. Acknowledgment of Receipt of Cost Reimbursement Account Letter

**Attachment 1**

**SITE CLEANUP PROGRAM (SCP)  
BILLING COST EXPLANATION**

<b>Employee Salary and Benefits by Classification</b>	<b>1 ABR</b>	<b>SALARY SCALE</b>
Associate Governmental Program Analyst	AGPA	5,852 - 7,113
Engineering Geologist	EG	9,213 - 11,201
Environmental Scientist	ES	4,092 - 7,596
Office Assistant (G)	OA	2,758 - 3,684
Office Assistant (T)	OA	2,850 - 3,759
Office Technician (G)	OT	3,509 - 4,268
Office Technician (T)	OT	3,572 - 4,341
Principal Water Resources Control Engineer	PWRCE	13,090 - 14,434
Sanitary Engineering Associate	SEA	6,597 - 8,016
Sanitary Engineering Technician	SET	4,543 - 6,339
Senior Engineering, Water Resources	SWRCE	9,811 - 13,090
Senior Engineering Geologist	SEG	10,802 - 13,127
Senior Environmental Scientist	SRES	7,248 - 8,749
Senior Water Resources Control Engineer	SRWRCE	10,802 - 13,127
Staff Counsel	STCOUN	6,216 - 10,411
Staff Counsel III	STCOUNIII	10,217 - 12,606
Staff Counsel IV	STCOUNIV	11,286 - 13,934
Staff Environmental Scientist	SES	7,242 - 8,745
Student Assistant	SA	2,663 - 2,938
Student Assistant Engineer	SAE	2,663 - 3,985
Supervising Engineering Geologist	SUEG	10,769 - 13,090
Supervising Water Resources Control Engineer	SUWRCE	10,769 - 13,090
Water Resources Control Engineer	WRCE	7,883 - 11,144

**Operating Expenses and Equipment** <sup>2</sup> (both Headquarters and Regional Board offices)

Indirect Costs (Overhead - cost of doing business) 135%

**Billing Example**

Water Resources Control Engineer	
Salary:	\$ 11,144
Overhead (indirect costs):	\$ <u>15,044</u>
Total Cost per month	\$ 26,188

Divided by 176 hours per month equals per hour: \$ 148.80  
(Due to the various classifications that expend SCP resources. An average of \$ 150.00 per hour can be used for projection purposes.)

<sup>1</sup> The name and classification of employees performing oversight work will be listed on the invoice you receive.

<sup>2</sup> The examples are estimates based on recent billings. Actual charges may be slightly higher or lower.

## ATTACHMENT 2

**REIMBURSEMENT PROCESS FOR REGULATORY OVERSIGHT**

We have identified your facility or property as requiring regulatory cleanup oversight. Pursuant to the Porter-Cologne Water Quality Control Act, reasonable costs for such oversight can be recovered by the Regional Water Quality Control Board (RWQCB) from the responsible party. The purpose of the enclosure is to explain the oversight billing process structure.

**INTRODUCTION**

The Porter-Cologne Water Quality Control Act authorizes the State Water Resources Control Board (SWRCB) to set up Cost Recovery Programs. The Budget Act of 1993 authorized the SWRCB to establish a Cost Recovery Program for Site Cleanup Program (SCP). The program is set up so that reasonable expenses incurred by the SWRCB and RWQCBs in overseeing cleanup of illegal discharges, contaminated properties, and other unregulated releases adversely impacting the State's waters can be reimbursed by the responsible party. Reasonable expenses will be billed to responsible parties and collected by the Fee Coordinator at the SWRCB in the Division of Financial Assistance (DFA).

**THE BILLING SYSTEM**

Each cost recovery account has a unique Site ID number assigned to it. Whenever any oversight work is done, the hours are entered into the SCP Cost Recovery/daily logs database. The cost of the staff hours is calculated by the State Accounting System based on the employee's salary and benefit rate and the SWRCB overhead rate.

SWRCB and RWQCB Administrative charges for work such as accounting, billing preparation, general program meetings and program specific training cannot be charged directly to an account. This work will be charged to Administrative accounting codes one per Region. The Accounting Office totals these administrative charges for the billing period and distributes them back to all of the accounts based on the number of hours charged to each account during that billing period. These charges show as State Board Program Administrative Charges and Regional Board Program Administrative Charges on the Invoice.

The current billing period charges will include associated labor costs, risk assessment contract charges, overhead charges, SWRCB/DFA Administrative charges, and RWQCB Administrative charges. The overhead charges are based on the number of labor hours charged to the account. The overhead charges consist of rent, utilities, travel, supplies, training, and accounting services. Most of these charges are paid in arrears. The Accounting Office keeps track of these charges and distributes them back monthly to only those accounts having Labor hours charged to them for the period being billed. No site will be billed for overhead during a billing period unless Labor hours have been posted to the RWQCB employee's daily logs residing in the SCP Cost Recovery database.

Invoices are issued quarterly, one quarter in arrears. If a balance is owed, a check is to be remitted to the SWRCB with the invoice remittance stub within 30 days after receipt of the invoice. The Fee Coordinator inputs a record of all checks received directly or by the Accounting Office on a daily basis.

ATTACHMENT 2

Copies of the invoices are sent to the appropriate RWQCBs so that they are aware of the oversight work invoiced. Questions regarding the work performed should be directed toward your RWQCB case worker.

**DISPUTE RESOLUTION**

If a dispute regarding oversight charges cannot be resolved with the RWQCB, Section 13320 of the California Water Code provides a process whereby persons may petition the SWRCB for review of RWQCB decisions. Regulations implementing Water Code Section 13320 are found in the Title 23 of the California Code of Regulations, Section 2050.

**DAILY LOGS**

A detailed description (daily log) of the actual work being done at each specific site is kept by each employee in the Regional Water Board who works on the cleanup oversight at the property. This information is provided on the quarterly invoice using standardized work activity codes to describe the work performed. *Upon request, a more detailed description of the work performed is available from the RWQCB staff.*

**REMOVAL FROM THE BILLING SYSTEM**

After the cleanup is complete, the RWQCB will submit a closure form to the SWRCB to close the account. If a balance is due, the Fee Coordinator will send a final billing for the balance owed. The responsible party should then submit a check to the SWRCB to close the account.

**AGREEMENT**

No cleanup oversight will be performed unless the responsible party of the property has agreed in writing to reimburse the State for appropriate cleanup oversight costs and submitted to the RP. You may wish to consult an attorney in this matter. As soon as the letter is received, the account will be added to the active Site Cleanup program Cost Recovery billing list and oversight work will begin.



# California Regional Water Quality Control Board

## Los Angeles Region



Linda S. Adams  
Acting Secretary for  
Environmental Protection

320 W 4th Street, Suite 200, Los Angeles, California 90013  
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

Edmund G. Brown Jr.  
Governor

### ATTACHMENT 3

#### CERTIFICATION DECLARATION FOR COMPLIANCE WITH FEE TITLE HOLDER NOTIFICATION REQUIREMENTS (California Water Code Section 13307.1)

Please Print or Type

Fee Title Holder(s): \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Telephone Number / Fax Number: \_\_\_\_\_

Site Name: \_\_\_\_\_

Address: \_\_\_\_\_

County Assessor Parcel Number (APN): \_\_\_\_\_

Contact Person: \_\_\_\_\_

Telephone Number / Fax Number: \_\_\_\_\_

File Number: \_\_\_\_\_ SCP No. 1260

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations." (See attached page for who shall sign the Certification Declaration).

\_\_\_\_\_  
Printed Name of Person Signing

\_\_\_\_\_  
Official Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date Signed

California Environmental Protection Agency



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

ATTACHMENT 3

The certification declaration form must be signed as follows:

1. For a corporation - by a responsible corporate officer, which means; (i) by a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy of decision making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
2. For a partnership or sole proprietorship - by a general partner or the proprietor respectively.
3. For a municipality, state, federal, or public agency - by either a principal executive officer or ranking elected official. A principal executive officer of a federal agency includes (i) the chief executive officer of the agency or (ii) a senior executive officer having responsibility for the overall operations or a principal geographic unit.

*California Environmental Protection Agency*



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



# California Regional Water Quality Control Board Los Angeles Region



Linda S. Adams  
Acting Secretary for  
Environmental Protection

320 W. 4th Street, Suite 200, Los Angeles, California 90013  
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

Edmund G. Brown Jr.  
Governor

## ATTACHMENT 4

### ACKNOWLEDGEMENT OF RECEIPT OF OVERSIGHT COST REIMBURSEMENT ACCOUNT LETTER

I, \_\_\_\_\_, acting within the authority vested in me as an authorized representative of \_\_\_\_\_, a corporation, acknowledge that I have received and read a copy of the attached *REIMBURSEMENT PROCESS FOR REGULATORY OVERSIGHT* and the cover letter dated May 10, 2011, concerning cost reimbursement for Regional Board staff costs involved with oversight of cleanup and abatement associated with the **Dominguez Channel release in Carson, California in Los Angeles County**. The release is occurring within the Dominguez Channel, approximately 400 feet south of Carson Street in Carson, California.

I understand the reimbursement process and billing procedures as explained in the letter. Our company is willing to participate in the cost recovery program and pay all subsequent billings in accordance with the terms in your letter and its attachments, *and to the extent required by law*. I also understand that signing this form does not constitute any admission of liability, but rather only an intent to pay for costs associated with oversight, *as set forth above, and to the extent required by law*. Billings for payment of oversight costs should be mailed to the following individual and address:

BILLING COMPANY \_\_\_\_\_

BILLING CONTACT \_\_\_\_\_

BILLING ADDRESS \_\_\_\_\_

TELEPHONE NO. \_\_\_\_\_ E-Mail \_\_\_\_\_

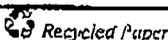
RESPONSIBLE PARTY'S SIGNATURE \_\_\_\_\_ (Signature)

\_\_\_\_\_ (Title)

DATE: \_\_\_\_\_

SCP NO. 1260	SITE ID NO.
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*California Environmental Protection Agency*



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

# Exhibit 3

# Exhibit 3



United States Coast Guard  
 Marine Safety Laboratory  
 Oil Spill Identification Report  
 11-125

Requestor: U. S. EPA Region IX

Unit Case/Activity Number: E11908

Received: 15-Feb-11

Via: Federal Express 8710 1056 5463

RESULTS:

1. Sample 11-125-1 was specified to be representative of spilled oil. Analysis indicates this sample contains gasoline mixed with traces of heavier petroleum oil. It is not possible based on the analysis conducted to determine if the heavier petroleum product is lubricating oil or a degraded fuel oil due to the limited quantity of product in the sample.



# Exhibit 4

# Exhibit 4

**CRIMSON PIPELINE L.P.**

2459 Redondo Avenue  
Long Beach, CA 90755-4020

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May 6, 2011

Mr. Greg Bishop, P.G.  
Engineering Geologist  
Regional Water Quality Control Board – Los Angeles Region  
320 W. 4<sup>th</sup>  
Los Angeles, CA 90013

Subject: Requirement for Technical Report  
Dominguez Channel  
Carson, California

Dear Mr. Bishop:

Crimson Pipeline L.P. (Crimson) is in receipt of the Regional Water Quality Control Board's (RWQCB) letter of April 26, 2011 concerning the subject site (Site). Crimson does own an idle crude oil pipeline which parallels and is adjacent to the Dominguez Channel in the vicinity of the Site. The pipeline is known as the Dominguez Gathering pipeline. It is a 6-inch diameter crude oil pipeline originally constructed by Unocal.

Our records indicate that this pipeline was previously in crude oil service only and that the pipeline has been emptied of all crude oil, purged with nitrogen, and has been in an idle status since 1999. The pipeline was idled as a result of the shutdown of the crude oil production sites connected to the pipeline. A review of our records did not find any reports or documents indicating that the pipeline ever had a release in the vicinity of the subject site.

Crimson is in the process of conducting further integrity evaluations of the pipeline. We believe that these evaluations will support our position that this pipeline is not a contributory source to the petroleum hydrocarbons referenced in the Order. Further, it should be noted that this pipeline only transported crude oil and would therefore, not be a likely contributor to the "gasoline-range" or other refined petroleum products referenced in the Order.

Upon completion of our evaluations, Crimson will provide a report to the RWQCB of our findings. However, at this time, we believe that preparing a Work Plan to

delineate the vertical and lateral extent of petroleum impacts of the Dominguez Channel is unnecessary as our records indicate that it is unlikely that this pipeline is a contributor to the petroleum hydrocarbons present in the Dominguez Channel.

Sincerely,

A handwritten signature in black ink, appearing to read "LW Alexander", with a long horizontal flourish extending to the right.

Larry Alexander  
President

COX, CASTLE & NICHOLSON LLP  
PERRY S. HUGHES (STATE BAR NO. 167784)  
phughes@coxcastle.com  
2049 Century Park East  
28th Floor  
Los Angeles, CA 90067-3284  
Telephone: (310) 277-4222  
Facsimile: (310) 277-7889

Attorneys for Petitioner CRIMSON PIPELINE, L.P.

**BEFORE THE STATE WATER RESOURCES CONTROL BOARD**

In the Matter of Appeal of Water Code Section  
13267 Order for Technical Report Pursuant to  
Water Code Section 13267

VIA: Electronic Submission with Hardcopy to  
Follow

**DECLARATION OF LARRY  
ALEXANDER IN SUPPORT OF  
PETITION FOR REVIEW AND  
REQUEST FOR STAY OF ORDER**

I, Larry Alexander, declare as follows:

1. I am the President of Crimson Pipeline, L.P. ("Petitioner"). The facts stated in this Declaration are true of my personal knowledge, and if called as a witness to testify, I could and would competently do so to each fact stated.
2. The Order for Technical Report Pursuant to Water Code Section 13267 ("Order") was issued to Petitioner on the basis of its ownership of a petroleum facility in the vicinity of a site within the Dominquez Channel ("Site"). Petitioner owns an idle crude oil pipeline adjacent to the Site. The pipeline was acquired by Petitioner in 2007. The pipeline was taken out of service, emptied of crude oil, nitrogen purged and sealed by its former owner in 1999.
3. There is no evidence of a discharge from the pipeline. The records of former owners contain no evidence of any leak or other release from the pipeline during its operation. Petitioner is conducting tests to confirm the integrity of the pipeline.

4. The pipeline connected crude oil production locations to a crude oil pipeline during its operation. Crude oil is the only substance that was transported or could have been transported through the pipeline. The records of the former owner and its predecessors establish the pipeline transported crude oil and no other substance.

5. The substance found at the site is light non-aqueous phase liquid ("LNAPL"). LNAPL could not have originated from a release of crude oil. The pipeline could not have been the source of a release of LNAPL during its operation.

6. In order for Petitioner's pipeline to have been use to transport products that could be a source of LNAPL, such as gasoline or jet fuel, the pipeline would have had to be registered with the California State Fire Marshal as a jurisdictional pipeline. The California State Fire Marshall has no records of the registration the pipeline as a products pipeline.

7. The Regional Board contends it has found "smaller fractions of heavier-end (diesel- and oil range) hydrocarbons" at the Site. This contention is based primarily on a single sample taken at the Site. The analytical "Results" for the referenced sample states "[i]t is not possible based on the analysis conducted to determine if the heavier petroleum product is lubricating oil or a degraded fuel oil due to the limited quantity of product in the sample." A copy of the Results is attached to the Petition as Exhibit 3. Lubricating oil and fuel oil are refined products that are not transported in crude oil pipelines. The analytical data contradicts the Regional Board's contention that this sample may have contained crude oil. The Regional Board has no analytical data supporting its claim that a sample contained crude oil.

8. The method used to collect that sample may have allowed contamination of the sample with hydrocarbon molecules from sediments in the Dominguez Channel from sources other than release that is the subject of the Order.

9. The Regional Board contends that it observed products that could be crude oil in drains at the Site. Such products may be residue from LNAPL or other refined hydrocarbons, such as lubricating oil or fuel oil. The mere presence of a "dark brown to black and translucent" substance containing hydrocarbons is not proof of a release of crude oil.

10. Petitioner's pipeline is adjacent to an active crude oil pipeline. Despite it being an active pipeline, the Regional Board has not issued a similar order to the operator of that pipeline. Instead, the Regional Board has allowed the operator to conduct integrity assessment on their pipeline rather than pursue the investigation requested of Petitioner. Petitioner is merely seeking similar treatment from the Regional Board. There are additional active crude oil pipelines in the vicinity of the Site. Assuming crude oil is present in the Release, which Petitioner does not admit, Petitioner's idle pipeline is the least probable source of such crude oil.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct, and that this declaration was executed in Long Beach, California.

DATED: May 26, 2011

By: \_\_\_\_\_

  
Larry Alexander  
President of Crimson Pipeline, L.P.