CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

TENTATIVE ORDER

RESCISSION OF SITE CLEANUP REQUIREMENTS (ORDER NO. R2-2005-0061) for:

MOUNTAIN CASCADE INC.,
EAST BAY MUNICIPAL UTILITY DISTRICT,
KINDER MORGAN ENERGY PARTNERS, LLP, AND
CONTRA COSTA COUNTY.

For the property located at:

SOUTH BROADWAY – Between Rudgear Road and Newell Avenue
WALNUT CREEK, CONTRA COSTA COUNTY

The California Regional Water Quality Control Board, San Francisco Bay Region (hereinafter the Regional Water Board), finds that:

1. **Regional Water Board Orders:** The Regional Water Board adopted Site Cleanup Requirements for the above-identified site on Wednesday, November 16, 2005 (Order No. R2-2005-0061). The Order names Mountain Cascade Inc. (MCI), East Bay Municipal Utility District (EBMUD), Kinder Morgan Energy Partners, LLP (Kinder Morgan), and Contra Costa County as dischargers. The Order established Site Cleanup Requirements for the investigation and remediation of discharges of petroleum product from a ruptured subsurface fuel pipeline.

2. **Compliance with Board Orders:** The Order required the dischargers to investigate the extent of soil and groundwater contamination and implement a corrective action plan. The dischargers have completed these tasks.

3. **Basis for Rescission:** Rescission of Order No. R2-2005-0061 is appropriate and this case is a low-threat to human and ecological health, water quality and beneficial uses based on the reasons discussed below:

    a. **Pollutant sources are identified and evaluated**. The primary pollutant source was a subsurface petroleum fuel supply pipeline that ruptured and released approximately 24,000 gallons of gasoline on November 9, 2004.

    b. **The Site is adequately characterized**. The site investigation, which was conducted in accordance with Tasks 4 through 6 of Order No. R2-2005-0061 and completed in 2006, satisfactorily characterized the site. Groundwater and soil samples from five wells and borings adequately delineated the primary chemicals of concern, which include total petroleum hydrocarbons

(TPH); benzene, toluene, ethylbenzene, and xylenes (BTEX); and fuel-related constituents.

c. **Exposure pathways, receptors, and potential risks, threats, and other environmental concerns are identified and assessed.** The site is currently used as a landscaped strip of land adjacent to an active roadway. A site conceptual model addressing risks associated with current and anticipated land use identified the following two groups as potential onsite receptors : 1) current/future construction workers involved with road or utility repair work; and 2) maintenance workers involved with landscaping upkeep in the easement.

However, the risks posed to these two groups of workers remain relatively low because contaminant levels are negligible in surface soils at the site. All detections of contaminants above applicable screening levels are found in a localized area immediately adjacent to the pipeline rupture location at depths greater than 10 feet below ground surface. Landscaping workers are unlikely to dig to depths of ten feet. While utility workers could dig to this depth, the areas of higher concentration are localized, meaning that work can be either planned to avoid these areas, or workers can be provided with adequate protective equipment when digging in contaminated areas. The January 31, 2006, Soil Management Plan (SMP) provides the basis for proper storage, characterization and handling of soil near the pipeline rupture. Any work involving site grading, excavation, construction, or other activities that could lead to direct contact with contaminated soil will be conducted pursuant to the SMP.

Shallow groundwater meets drinking water standards and can be used as a potential source of drinking water. The shallow groundwater beneath the site is not currently used for drinking water and any dewatering related to maintenance of landscaping would not be required because the shallowest depth to water is below 20 feet below ground surface. While the shallow water-bearing zone beneath the site may be designated as a potential water supply in the future, the groundwater is not currently used for municipal water supply and this location does not overly a groundwater basin with existing beneficial uses. The nearest water supply well is located over two and a half miles east of the site.

d. **Pollutant sources have remediated to the extent feasible**

Approximately 2,500 gallons of product were recovered from the site in the aftermath of the pipeline rupture. After the damaged pipe and approximately 10 cubic yards of contaminated soils were removed, this area was backfilled with clean soil. Trench pit and excavation sidewall samples taken adjacent to the fuel pipeline rupture detected concentrations of benzene, petroleum gasoline, and diesel at up to 3.4 milligrams per kilogram (mg/kg), 7,400

mg/kg, 760 mg/kg. However, additional soil removal is not feasible due to the proximity to buried utilities and an active roadway. The pipeline was eventually reinstalled in mid-2005.

Thirty soil samples were taken during site characterization activities in 2006 near the fuel pipeline rupture with maximum detections of benzene, petroleum gasoline, and diesel of 0.011 milligrams per kilogram (mg/kg), 10 mg/kg, and 38 mg/kg. These concentrations are below the 2019 Regional Water Board's Tier 1 Environmental Screening Levels (ESLs). Contaminant concentrations were generally not detected in groundwater monitoring wells and shallow groundwater meets drinking water standards. These results indicate that environmental impacts appear to have been restricted to a localized area in soil within 50 feet of the pipeline rupture location.

e. **Unacceptable risks to human health, ecological health, and sensitive receptors, considering current and future land and water uses, have been mitigated**. The site does not pose a significant risk to human health based on the soil and groundwater sampling results and the low likelihood of direct exposure to the petroleum-related compounds under the current use of the property. Shallow groundwater meets drinking water standards and can be used as a potential source of drinking water. The general lack of contaminant detections in groundwater indicate that the release has not significantly affected groundwater quality based on quarterly monitoring data from 2006 to 2009. Further, the levels of residual contamination in soils do not appear to be an ongoing threat to groundwater quality and are expected to naturally attenuate over time. Groundwater monitoring results near the source area indicate that contamination has not leached from the soil and is not a risk to beneficial use of groundwater.

f. **There are no unacceptable threats to groundwater and surface water resources, considering existing and potential beneficial uses.** Surface water samples from San Ramon Creek culvert were collected adjacent to, upstream and downstream of the pipeline rupture location and no contaminants were detected. Three years of quarterly groundwater sampling and four samples taken from the nearby San Ramon Creek culvert indicated that shallow groundwater impacts had not affected any surface water bodies or drinking water wells. Contaminant concentrations did not exceed drinking water standards and were generally not detected during the last four quarterly sampling events. All onsite and offsite groundwater monitoring wells associated with the site have been properly destroyed.

g. **Groundwater plume is decreasing**. Groundwater monitoring results from over two hydrologic cycles between 2006 to 2009 indicate that contaminant concentrations decreased to below laboratory reporting limits at Site monitoring wells. During quarterly sampling events in 2008 and 2009, TPH and related volatile organic compounds (VOCs) were detected at slightly

elevated levels in monitoring well MW-02. These constituents were observed in March 2008 after non-detect levels in all monitoring wells in the previous five rounds of sampling. However, contaminant levels decreased to below human health risk screening levels during the following four quarterly sampling events in 2009 and are unlikely to pose a long-term threat to groundwater quality.

h. **Cleanup levels can be met in a reasonable time frame.** Shallow groundwater meets drinking water standards and can be used as a potential source of drinking water. Natural attenuation is expected to reduce remaining Site-related contaminant concentrations in soil.

i. **Risk management measures are not needed**. A deed restriction is not needed because the low likelihood of potential exposure due to current and future land use as landscaped strip of land adjacent to an active roadway does not pose a significant threat to human health. Any work involving site grading, excavation, construction, or other activities that could lead to direct contact with contaminated soil will be conducted pursuant to the SMP.

4. **Human Right to Water**: Under Water Code § 106.3, the State of California's policy is that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. (Wat. Code, § 106.3; see also State Water Board Resolution No. 2016-0010.) The human right to water extends to all Californians, including disadvantaged individuals and groups and communities in rural and urban areas. This order promotes that policy because maximum contaminant levels designed to protect human health and ensure that water is safe for domestic use are and will continue to be met in existing and future supply wells. The extent of contamination from the Site does not reach any water supply wells and is not expected to migrate to any water supply wells.

5. **CEQA:** This action rescinds an order to enforce the laws and regulations administered by the Regional Water Board. Rescission of the order is not a project as defined in the California Environmental Quality Act (CEQA). There is no possibility that the activity in question may have a significant effect on the environment. (Cal. Code Regs., tit. 14 §§ 15378 and 15061, subd. (b) (3).)

6. **Notification:** The Regional Water Board has notified the discharger and all interested agencies and persons of its intent under Water Code section 13304 to rescind site cleanup requirements for the discharge and has provided them with an opportunity to submit their written comments.

IT IS HEREBY ORDERED, pursuant to sections 13304 and 13267 of the Water Code, that Order No. R2-2005-0061 is rescinded.

I, Michael Montgomery, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on _____.

_____
Michael Montgomery
Executive Officer