



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

Sent Via Electronic Mail:

Catherine Callaway James
Vice President and General Counsel
Kinder Morgan, Inc.
1001 Louisiana St., Suite 1000
Houston, TX 77002

RE: Notice of Potential Enforcement Action for Violations of Section 311 of the Clean Water Act from November 20, 2020, Walnut Creek Oil Spill

Dear Catherine Callaway James:

Based on the information available to the United States Environmental Protection Agency ("EPA"), EPA alleges that on or about November 20, 2020, a pipeline owned and operated by SFPP, LP, a subsidiary of Kinder Morgan, Inc. ("Respondents") known as Pipeline 16 discharged oil in such quantities as may be harmful into or upon the navigable waters of the United States and adjoining shorelines, in violation of Section 311(b)(3) of the Clean Water Act, 33 U.S.C. §1321(b)(3).

EPA is preparing to file a complaint against Respondents for penalties, however EPA would like to discuss a quick and efficient administrative settlement with Respondents at the statutory maximum of \$288,080. EPA calculated this penalty amount pursuant to EPA's PENALTY POLICY FOR SECTIONS 311(B) AND (J) OF THE CLEAN WATER ACT (the "Penalty Policy")¹ and believes this penalty amount is appropriate given the volume of oil spilled, 975 bbl, as quantified by Respondents. Terms of the Consent Order and Final Agreement can be negotiated between the parties once an agreement in principle is finalized.

If you are interested in commencing settlement negotiations, please contact Ash Nieman at (415) 972-3464 or Nieman.Ash@epa.gov, or have your counsel contact Rebecca Ringler at (415) 972-3401 or Ringler.Rebecca@epa.gov, no later than fifteen (15) days after receipt of this letter to schedule a meeting or conference call.

¹ The Penalty Policy is available at: <https://www.epa.gov/enforcement/civil-penalty-policy-section-311b3-and-section-311j-clean-water-act-cwa-august-1998>.

Any penalty proposed in the context of settlement discussions for violations of the Clean Water Act and its implementing regulations will be calculated pursuant to the Penalty Policy and adjusted for inflation.² EPA may, as a matter of enforcement discretion, consider a respondent's performance of a Supplemental Environmental Project ("SEP") as one factor in determining an appropriate settlement. A SEP is an environmentally beneficial project or activity that is not required by law, but that a respondent agrees to undertake as part of the settlement of an enforcement action. SEPs secure environmental and/or public health benefits in addition to those achieved by compliance with applicable laws. EPA evaluates proposed projects under the framework established in the Supplemental Environmental Projects Policy 2015 Update.³

EPA has created several helpful resources for small businesses. EPA developed a fact sheet about the Small Business Regulatory Enforcement Fairness Act, which is available at: <https://www.epa.gov/sites/default/files/2017-06/documents/smallbusinessinfo.pdf>. EPA has also established the National Compliance Assistance Clearinghouse as well as Compliance Assistance Centers, which offer various forms of resources to small businesses. Information about such resources is available at: <https://www.epa.gov/resources-small-businesses>.

Lastly, EPA is requesting Respondent to sign the attached Tolling Agreement, which seeks to toll the statute of limitations for one additional year, commencing on November 20, 2025, and ending on November 20, 2026.

If you have any questions, please contact Ash Nieman at (415) 972-3464 or Nieman.Ash@epa.gov, or have your counsel contact Rebecca Ringler at (415) 972-3401 or Ringler.Rebecca@epa.gov. Thank you for your prompt attention to this matter.

Sincerely,

**JAMES
MARINCOLA**

James Paul Marincola, Manager
Storm Water, Wetlands and Oil Enforcement Section

 Digitally signed by JAMES
MARINCOLA
Date: 2025.01.21 11:54:10 -08'00'

² See <https://www.epa.gov/enforcement/enforcement-policy-guidance-publications#penalty>; <https://www.govinfo.gov/content/pkg/FR-2023-01-06/pdf/2022-28611.pdf>.

³ See <https://www.epa.gov/enforcement/supplemental-environmental-projects-seps>.