

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION**

RESOLUTION NO. R6T-2006 –0014

**AUTHORIZING ATTORNEY GENERAL
REFERRAL REGARDING KINDER MORGAN
ENERGY PARTNERS, L.P., DIESEL FUEL SPILL IN
NORDEN, PLACER COUNTY**

WHEREAS, the California Water Quality Control Board, Lahontan Region finds:

1. Kinder Morgan Energy Partners, L.P. (hereafter “Discharger”), owns and operates a fuel distribution pipeline, transmitting fuel from the Rocklin terminal in California to a terminal in Sparks, Nevada.
2. On or about April 1, 2005, the Discharger discharged approximately 1,749 gallons of a mixture of diesel and gasoline fuel (hereafter “Discharge”) into the uppermost portion of the Summit Creek drainage, a water of the State, from an 8-inch diameter underground pipeline with the location of SE ¼ SW ¼, Section 16, Township 17N, Range 15E. Mt. Diablo Base and Meridian. Global positioning system coordinates: Long. – 120.32466, Lat. – 39.31463.
3. The Discharge polluted approximately 0.052 acres of wetlands within the release area and 3,015 linear feet of the creek. The emergency response included staff of the California Regional Water Quality Control Board, Lahontan Region (Water Board), the California Department of Fish and Game, Office of Spill Prevention and Response (DFG/OSPR), and other agencies.
4. The Discharge has polluted waters of the State and adversely impacted the beneficial uses thereof, including but not limited to wildlife habitat including benthic macroinvertebrates, vegetation, and recreational water supplies.
5. The Discharger has cooperated with the Water Board and other agencies and completed the initial emergency response actions and interim remedial actions. The Discharger has not submitted a final restoration plan.
6. DFG/OSPR, as a state natural resource trustee, is engaged in Natural Resources Damage Assessment negotiations with the Discharger to recover monies for injury to, destruction of, or loss of natural resources. The Discharger and DFG/OSPR have submitted to the Board all the damage assessment studies that were performed under the NRDA process.
7. Now that remedial actions are underway, the Water Board finds it is necessary and appropriate to move to the next phase of responding to the Discharge by referring this matter to the California Attorney General’s Office to seek judicially

imposed civil penalties and to file such other punitive causes of action and to seek other remedies as may be permissible and appropriate. The Water Board further finds that referring this matter to the Attorney General is appropriate so that there can be coordinated State action in the event other State agencies seek judicial remedies.

8. The Discharger has caused or permitted petroleum products to be deposited in or on waters of the State and is, at a minimum, civilly liable under Water Code section 13350, subdivision (a). Under Water Code section 13350, subdivision (d), a court may impose such civil liability either on a daily basis not to exceed fifteen thousand dollars (\$15,000) for each day the violation occurs or on a per gallon basis not to exceed twenty dollars (\$20) for each gallon of waste discharged.
9. Water Code section 13350, subdivision (g) requires the Water Board to hold a hearing, with due notice of the hearing to all affected persons, prior to requesting the Attorney General to petition a court to impose, assess, and recover civil liability. On April 12, 2006, the Water Board held such a meeting in compliance with Water Code section 13350, subdivision (g), and considered the testimony and evidence offered at the hearing and in the record.

THEREFORE, BE IT RESOLVED:

1. The Water Board hereby authorizes the Executive Officer to request that the Attorney General seek judicially imposed civil penalties pursuant to Water Code section 13350, subdivision (a) and to file such other punitive causes of action and to seek other relief as may be permissible and appropriate.
2. The Water Board hereby authorizes the Executive Officer to accept, on behalf of the Water Board, judicial civil liability in an amount that he deems appropriate and report it to the Board Chair.
3. The Water Board directs the Executive Officer to work in coordination with other State and federal agencies that may be seeking to impose penalties on the Discharger for the Discharge.

I, Harold J. Singer, Executive Officer, hereby certify that the forgoing is a full, true and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Lahontan Region, at its regular meeting on April 12, 2006.



HAROLD J. SINGER
EXECUTIVE OFFICER