

Chevron Pipe Line Company Salt Lake City, Utah	NOTICE OF VIOLATION AND ORDER (as corrected) DOCKET NO. I10-01
---	---

The Notice of Violation and Order, issued on July 13, 2010, is being reissued to correct citations in Section D.

A. STATUTORY AUTHORITY

This **NOTICE OF VIOLATION and COMPLIANCE ORDER (NOV/CO)** is issued by the UTAH WATER QUALITY BOARD (the **BOARD**) under the Utah Water Quality Act, as amended, Utah Code Ann. §§ 19-5-101 through 19-5-124 (the **ACT**), including Utah Code Ann. §§ 19-5-104, 19-5-106, 19-5-111 and 19-5-115. This **NOV/CO** is also issued in accordance with the Utah Administrative Procedures Act, Utah Code Ann. §§ 63G-4-101 through 63G-4-601. The **BOARD** has delegated to the Executive Secretary of the Board (**Executive Secretary**) authority to issue such **NOTICES AND ORDERS** in accordance with Utah Code Ann. § 19-5-106(8).

B. APPLICABLE STATUTORY AND REGULATORY PROVISIONS

1. It is unlawful for any person to discharge a pollutant into waters of the state, unless the discharge is authorized by permit, Utah Code Ann. § 19-5-107(1)(a). See also Utah Admin. Code R317-1-1.34. Waters of the State means “all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through, or border upon this state or any portion of the state. . . .” Utah Code Ann. § 19-5-102(18)(a).
2. It is unlawful to cause pollution that constitutes a menace to public health and welfare, or is harmful to wildlife, fish or aquatic life, or impairs domestic, agricultural, industrial, recreational, or other beneficial uses of water. It is also unlawful to place or cause to be placed any wastes in a location where there is probable cause to believe it will cause pollution. Utah Code Ann. § 19-5-107(1)(a).
3. Utah Admin. Code R317-2-7.2 prohibits any person from discharging or placing any waste or other substance in such a way as will be or may:
 - “become offensive such as unnatural deposits, floating debris, oil, scum or other nuisances such as color, odor or taste; or cause conditions which produce undesirable aquatic life or which produce objectionable tastes in edible aquatic organisms; or result in concentrations or combinations of substances which produce undesirable physiological responses in desirable resident fish, or other desirable aquatic life, or undesirable human health

effects, as determined by bioassay or other tests performed in accordance with standard procedures.”

4. Utah Admin. Code R317-2-7.1 prohibits any person from discharging, or placing any wastes or other substances, in a manner that may interfere with waters’ designated uses, or to cause any of the applicable standards to be violated.
5. As Red Butte Creek (and all channels) from the Red Butte Reservoir to the Jordan River and Liberty Park Pond (Liberty Lake) are not specifically classified, they are “unclassified” waters. Utah Admin. Code R317-2-13.13 classifies all unclassified waters as 2B and 3D. R317-2-6 defines the use designations for an unclassified water such as Red Butte Creek or Liberty Lake as:

Class 2B -- Protected for secondary contact recreation such as wading, hunting, fishing or similar uses.

Class 3D -- Protected for waterfowl, shore birds and other water-oriented wildlife not included in Classes 3A, 3B, or 3C, including the necessary aquatic organisms in their food chain.

6. Utah Admin. Code R317-2-13.5 classifies the Jordan River from the confluence with Little Cottonwood Creek to North Temple Street in Salt Lake City 2B, 3B, and 4. The Jordan River from Farmington Bay to North Temple Street is classified as 2B, 3B, 3D, and 4. Utah Admin. Code R317-2-6 defines the use designations for the Jordan River classification as:

Class 2B -- Protected for secondary contact recreation such as wading, hunting, fishing or similar uses.

Class 3B -- Protected for warm water species of game fish and other warm water aquatic life, including the necessary aquatic organisms in their food chain.

Class 3D -- Protected for waterfowl, shore birds and other water-oriented wildlife not included in Classes 3A, 3B, or 3C, including the necessary aquatic organisms in their food chain.

Class 4 -- Protected for agricultural uses including irrigation of crops and stock watering.

C. FINDINGS OF FACT

1. On June 12, 2010, at approximately 6:00 AM the Salt Lake City Fire Department (SLCFD) responded to a possible fuel spill along Red Butte Creek near the Veterans Administration Hospital (VA) located near 550 Foothill Boulevard in Salt Lake City. Upon arrival SLCFD discovered the creek was covered in what appeared to be oil.
2. The SLCFD activated emergency procedures to contain the oil, and investigate the source and extent of impact. Further investigation identified

the source as a crude oil pipeline that crosses Red Butte Creek near the mouth of Red Butte Canyon. The SLCFD proceeded to contain the initial release, and divert the oil away from Red Butte Creek.

3. SLCFD made contact with the owner and operator of the pipeline, identified as Chevron Pipe Line Company (Chevron). The pipeline carries crude oil and is known as the “Rangely to Salt Lake City Crude Oil Pipeline System.” Upon notification of the release, Chevron initiated a shut-down of the crude oil flow in the pipeline, and activated emergency response procedures, then started cleanup and containment procedures along Red Butte Creek and other affected waterways.
4. SLCFD estimated an initial flow of oil release to be approximately 50 to 60 gallons per minute. When the pipeline flow was shut off, SLCFD estimated the flow to be reduced to approximately 25 to 30 gallons per minute. By mid day on June 12, SLCFD reported that the majority of the release into Red Butte Creek had been diverted to a makeshift ditch.
5. By the time Chevron had the initial containment portion of the response in place; oil had traveled as far as Jordan River, and was being collected at containment points as far north as 500 North Street in Salt Lake City. Oil was present in the Liberty Park Pond, Red Butte Creek, and Jordan River, and, as a result wildlife (fish and waterfowl) had been exposed to the oil. Salt Lake City Public Utilities (SLCPU) restricted public use of Liberty Park and areas along Red Butte Creek and the Jordan River. SLCPU also closed all irrigation diversions from Red Butte Creek on June 12, 2010.
6. By late on June 12, Chevron reported that the pipeline had drained completely and was no longer discharging crude oil.
7. By Monday June 14, Chevron’s cleanup and recovery efforts had increased along Red Butte Creek and the Jordan River and had installed recovery/cleanup booms along the Jordan River down to the Sixth North Street crossing.
8. The Executive Secretary became aware of the spill on June 12 through the Department of Environmental Quality’s emergency response system. Since that time, the Executive Secretary or his staff has been on-site daily inspecting and monitoring the affected spill area.

D. VIOLATIONS

Based on the foregoing Findings of Fact, **Chevron** has violated the following:

1. Utah Code Ann. § 19-5-107(1)(a), for the unpermitted release of a pollutant (crude

oil) from the pipeline and introduction of the pollutant into Red Butte Creek, Liberty Lake and the Jordan River, as described in Findings of Fact Sections 1 through 8.

2. Utah Administrative Code R317-2-7.2, for the release of a waste or a substance (crude oil) into Red Butte Creek, Liberty Lake and the Jordan River in such a way as it did or may have become offensive, as described in Findings of Fact Sections 1 through 8.
3. Utah Administrative Code R317-2-7.1, for the release of crude oil from the pipeline and introduction of crude oil into Red Butte Creek, Liberty Lake, and the Jordan River thereby causing a violation of water quality standards and interference with the designated uses of said waters, as described in Findings of Fact Sections 1 through 8.

E. ORDER

Based on the foregoing **FINDINGS OF FACT** and **VIOLATIONS**, and pursuant to Utah Code Ann. § 19-5-107 and 19-5-111, **CHEVRON** is **HEREBY ORDERED** to:

- 1) Immediately initiate all action required to come into compliance with all applicable provisions of the Utah Water Quality Act and the Water Quality rules in the *Utah Administrative Code* (R317).
- 2) Immediately cease and desist all unpermitted discharges.
- 3) Submit to the **EXECUTIVE SECRETARY**, within 30 days of receipt of this **NOV/CO**, a report which includes, but is not limited to a description of the following:
 - a) The initial release incident and Chevron's response;
 - b) An estimate of the quantity of oil released and supporting calculation;
 - c) Chevron's cleanup activities for all waters of the state, their surrounding environments and associated conveyance systems impacted by the release; and
 - d) The proper and appropriate disposal of wastes associated with the release, and supporting documentation
- 4) Submit to the **EXECUTIVE SECRETARY**, within 30 days of receipt of this **NOV/CO**, a plan for establishing the extent of the area impacted by the release, to include at a minimum:
 - a) A report on the impact of the release;
 - b) Site plans and maps of the area affected by the release; and
 - c) The proposed ongoing environmental monitoring plan for the affected area.
- 5) Submit to the **EXECUTIVE SECRETARY**, within 30 days of receipt of this **NOV/CO**, a long-term clean up plan for the impacted area that details Chevron's clean-up and remediation of impacted water bodies, including water column, sediment, and hard surfaces, such as rocks, concrete banks, culverts, ditches and

ponds. The plan shall also address spill site soils clean-up, groundwater contamination, and remediation of biological impacts to fish, waterfowl, and aquatic food chain organisms.

- 6) All letters of response, reports, plans and submittals made in accord with this NOV/CO shall be certified by an authorized Chevron representative as follows:

“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 managed 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 or imprisonment for knowing violations.”

F. NOTICE

This **NOTICE OF VIOLATION** and **COMPLIANCE ORDER (NOV/CO)** is effective immediately. **CHEVRON** may contest this **NOV/CO** by submitting a request for Agency Action in writing as specified in Utah Admin. Code R317-9-3. Any such request must be received by the Executive Secretary within 30 days of the **NOV/CO**'s issuance or the **NOV/CO** shall become final.

Compliance with the provisions of this **ORDER** is mandatory. The information requested will be considered in the evaluation of the extent of your compliance with the Water Quality Act, this Order and applicable administrative rules. Failure to respond fully and truthfully, or to adequately justify such failure to respond may subject **CHEVRON** to civil penalties or criminal fines under Utah Code Ann. § 19-5-115.

Utah Code Ann. § 19-5-115 provides that violation of the **ACT** or a related order may be subject to a civil penalty of up to \$10,000 per day of violation. Under certain circumstances of willfulness or criminal negligence, violators may be fined up to \$25,000 per day.

Signed this day of July, 2010 .
Utah Water Quality Board

Walter L. Baker, P.E.
Executive Secretary

