



State of Utah

GARY R. HERBERT
Governor

GREG BELL
Lieutenant Governor

Department of
Environmental Quality

Amanda Smith
Executive Director

DIVISION OF WATER QUALITY
Walter L. Baker, P.E.
Director

CERTIFIED MAIL
(Return Receipt Requested)

April 11, 2013

Patrick Green, Incident Commander
Chevron Pipe Line Company
2875 Decker Lake Drive
Salt Lake City, UT 84119

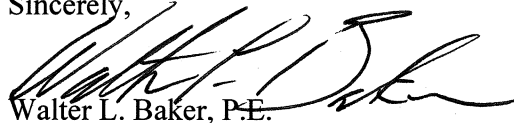
Dear Mr. Green:

Subject: Notice of Violation and Compliance Order, Docket No. I13-03, Chevron Pipe Line Company

Enclosed is the Notice of Violation and Compliance Order (NOV/CO), Docket Number I13-03, issued to you by the Utah Division of Water Quality (DWQ). This NOV/CO has been issued as a result of Chevron's diesel fuel release at the Willard Bay State Park, Utah location. A response is required within 30 calendar days of issuance of the NOV/CO. Failure to respond within 30 days will result in the NOV/CO becoming final. DWQ will contact you to arrange an initial settlement meeting after receiving your response. Your continued cooperation with resolving this matter is appreciated.

If you have any questions or wish to discuss anything related to the NOV/CO, please contact John Whitehead of this office at 801-536-4314, or by e-mail at jwhitehead@utah.gov.

Sincerely,



Walter L. Baker, P.E.

Director

WLB: JAS: jn

Enclosure

cc (w/ encl):

Amanda Smith, Department of Environmental Quality
Melissa Hubbell, Office of Attorney General
Stephanie Gieck, EPA Region VIII
Grant Koford, Bear River Health Dept.

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Chevron Pipe Line Company
Salt Lake City, Utah

Notice of Violation and Order
Docket No. I13-03

A. STATUTORY AUTHORITY

This **NOTICE OF VIOLATION and COMPLIANCE ORDER (NOV/CO)** is issued by the **UTAH WATER QUALITY BOARD (BOARD)** under the Utah Water Quality Act, as amended, Utah Code Ann. §§ 19-5-101 to 19-5-124 (**ACT**), including Utah Code Ann. §§ 19-5-104, -106, -111 and -115. This **NOV/CO** is also issued in accordance with the Utah Administrative Procedures Act, Utah Code Ann. §§ 63G-4-101 to-601. The **Director of the Division of Water Quality (Director)** has authority to issue such **NOV/COs** in accordance with Utah Code Ann. § 19-5-106(2)(d).

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. *See also* Utah Admin. Code R.317-1-2.1. 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(23)(a).
2. It is unlawful to cause pollution which 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, or 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 R.317-2-7.2 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 Code Ann. § 19-5-107(3)(a) states "[i]t is unlawful for any person, without first securing a permit from the director, to: make any discharge or manage sewage sludge not authorized under an existing valid discharge permit".

5. 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.

C. FINDINGS OF FACT

1. At approximately 14:26 M.D.T. on March 18, 2013, the Chevron Pipeline Company (Chevron) observed a rapid drop in flow rate at the Bear River Block Valve on the No. 1 diesel line going from Salt Lake, Utah, to Spokane, Washington. Chevron's field team was notified and responded to investigate.

2. At 18:25 M.D.T., the field team confirmed a release of an unknown volume of diesel in Willard Bay State Park. The release occurred on land and then drained into a drainage ditch which is connected via a series of wetland/channel chains to Willard Bay Reservoir.

3. The Pipeline and Hazardous Materials Safety Administration (PHMSA) has estimated that 600 barrels of diesel were released.

4. Chevron's response included contacting the National Response Center (NRC), EnviroCare, EarthFax Engineering, Inc. (Monitoring), the Ogden City Fire Department, and the Utah Department of Environmental Quality (DEQ) including the Division of Water Quality (DWQ).

5. It was determined that an eight-inch diameter pipeline had failed, possibly due to a longitudinal seam failure. The pipeline was constructed between 1949 and 1952. Records indicate that the last in-line inspection had been performed in March 2007.

6. Chevron's immediate response included securing the release and confirming the extent of the spill. Personnel and emergency crews were deployed to set up containment booms in order to prevent diesel from reaching Willard Bay Reservoir. Environmental contractors were also deployed in order to establish divisions within the impacted area and develop specific plans for each division.

7. The pipeline failure occurred in an environmentally sensitive area in North Willard Bay State Park. Willard Bay is a freshwater reservoir on the eastern edge of the Great Salt Lake. It is an important migratory bird resting area and is used for recreation and bird watching. The park, which is owned by the U. S. Department of the Interior, Bureau

of Reclamation, is maintained by the State of Utah. Willard Bay Reservoir is classified by the State of Utah as follows:

- 1C: Protected for domestic purposes with prior treatment by treatment processes as required by the Utah Division of Drinking Water;
- 3B: Protected for warm water species of game fish and other warm water aquatic life, including the necessary aquatic organisms in their food chain;
- 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; and,
- 4: Protected for agricultural uses including irrigation of crops and stock watering.

8. On March 19, 2013, the contractor, EarthFax, began water sampling. DWQ coordinated with EarthFax for split sampling at five locations. Split sampling between EarthFax and DWQ continued daily until March 21, 2013. After March 21, 2013, DWQ took responsibility for sampling and agreed to cooperatively monitor daily with EarthFax and share data results. Additional sample locations to confirm any hydrocarbon presence were established in close proximity to hard booms which were placed along the eastern shore of Willard Bay Reservoir, southwest of the northern campground.

9. The pipeline was inspected and repairs were completed by March 28, 2013. On March 30, 2013, PHMSA, inspected the repaired pipeline and approved the reintroduction of diesel into the pipeline. Chevron was approved to operate the pipeline at 80% of the normal operating pressure.

10. Water monitoring in the channel and wetland areas draining to Willard Bay Reservoir show that the diesel release has impacted the waters of the State. Hydrocarbons were detected in sample locations within the reservoir both within and outside of the area protected by the hard booms deployed along the shoreline of Willard Bay Reservoir. There was a visible sheen on the water in the channel and the wetlands and an offensive odor.

11. Shallow groundwater in the area has been impacted as indicated by diesel related hydrocarbons detected in groundwater samples collected from a French drain installed to intercept perched groundwater flowing toward the reservoir.

12. Surface and subsurface soil in the area has been impacted as indicated by diesel related hydrocarbons detected in soil samples collected in the area where the pipe failed and in the wetlands test pits.

13. The diesel discharged by this spill has impacted local flora and fauna. Willard Bay State Park facilities have been closed to prevent public exposure to spill conditions. The Northern Marina and campground remain closed and will be closed for months,

causing a significant economic impact on the State Park. Although there were no known injuries or evacuation of humans, the impact on wild, avian and aquatic life is still being determined. Thus far six mammals have been identified as suffering life threatening effects from the pollution. As of April 10, 2013, 408 barrels have been recovered from the spill area. An estimated 70 barrels of contamination are still remaining in the surrounding water and soil.

14. This is the third Notice of Violation issued by the Director for a release of product from Chevron Pipe Line Company in three years. In June 2010, a pipeline running from Hannah to Salt Lake City was identified as releasing crude oil into Red Butte Creek near the mouth of Red Butte Canyon. A Notice of Violation was issued for this particular pipeline in two different incidents; one on July 15, 2010, and again on January 19, 2011. Crude oil impacted Red Butte Creek, the Liberty Park Pond and the Jordan River, exposing fish and water to the oil, restricting public use of those waters and requiring extensive cleanup.

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 discharge of a pollutant (diesel) from the pipeline into waters of the state causing pollution which is harmful to wildlife, fish or aquatic life, or impairs domestic, agricultural, industrial, recreational, or other beneficial uses of water, or to place or cause to be placed any wastes in a location where there is probable cause to believe it will cause pollution harmful to the waters of the State.
2. Utah Code Ann. § 19-5-107(3)(a), for the un-permitted discharge of a pollutant (diesel) from the pipeline to waters of the State.
3. Utah Admin. Code R.317-2-7.2, for discharging diesel in such a way as it did or may have become offensive 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.
4. Utah Admin. Code R.317-2-7.1, for discharging diesel from the pipeline in a manner that may cause a violation of water quality standards or interfere with the designated uses of Willard Bay Reservoir and surrounding wetlands.

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 (R-317).
- 2) Immediately cease and desist all unpermitted discharges.
- 3) Submit to the **Director, within 60 days of receipt of this NOV/CO**, an **"Incident Response and Clean-Up Action Report"** which includes, but is not limited to the following:
 - a) A detailed description of the initial release incident and Chevron's response;
 - b) An estimate of the quantity of diesel released and supporting calculations;
 - c) A description of the impact from the release to soils, groundwater, vegetation and biota;
 - d) A detailed explanation of the cause(s) of the release and what measures are being taken to prevent this type of release in the future;
 - e) A description of all clean-up actions taken to address the spill and associated impacts;
 - f) Site plans and maps of the area affected by the release including all soil boring and sampling locations;
 - g) Laboratory results for all soil sampling including post excavation confirmation soil samples;
 - h) Site plans and maps of the area affected by the release including all surface water and ground water locations;
 - i) Laboratory results for all surface water and ground water sampling activities;
 - j) Documentation of the proper disposal of wastes generated as a result of clean-up actions;
 - k) Any proposed on-going environmental monitoring plan for the affected area;
 - l) All future clean up actions necessary to complete final closure of the site along with a compliance schedule for completing each action item; and,
 - m) A description of Chevron's future inspection and maintenance activities for the pipeline, along with a schedule those activities which will prevent future spills or releases from Chevron pipelines.
- 4) Chevron must submit a Final Clean-up Report to the Director for his approval **within 60 days of the conclusion of clean-up of the spill site**. A Final Clean-up Report for the impacted area must detail Chevron's clean-up and remediation of the impacted

area, including soils, groundwater, and any other impacts from the spill that were not previously included in the above noted "**Incident Response and Clean-Up Action Report.**"

5) All letters of response, reports, plans and submittals made in accordance with this **NOVICO** 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 a fine or imprisonment for knowing violations."

F. NOTICE

This **NOTICE OF VIOLATION** and **COMPLIANCE ORDER (NOVICO)** is effective immediately. **Chevron** may contest this **NOVICO** by submitting a Request for Agency Action in writing as specified in Utah Admin. Code R.317-9-3. Any such request must be received by the **Director** within 30 days of the **NOVICO's** issuance or the **NOVICO** 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.

Any compliance schedules submitted by the violator as required by this **Order** must be submitted in writing by the deadlines established in this **Order** and approved by the **Director**. Once compliance schedules are approved by the **Director**, the compliance schedule must be implemented according to the deadlines and requirements established in the compliance schedule(s) and/or this **Order**. Once approved, timeframes and requirements of any compliance schedule become binding on the violator.

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 gross negligence, violators may be fined up to \$25,000 per day of violation.

Signed this 11th day of April 2013,

A handwritten signature in black ink, appearing to read 'Walter L. Baker', written over a horizontal line.

Walter L. Baker, P.E.

Director of the Division of Water Quality