

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



**ITEM: 2.15  
(ID # 25876)**

**MEETING DATE:**  
Tuesday, September 17, 2024

**FROM :** AUDITOR CONTROLLER

**SUBJECT:** AUDITOR-CONTROLLER: Authorization of denial of State assessed unitary property tax refund claim for Tax Year 2019-20, All Districts [\$0]

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Authorize the denial of State assessed unitary property tax refund claim for the return of 2019-20 taxes paid on State assessed bills for SFPP, L.P. ("Claimant"), pursuant to Revenue and Taxation Code Sections 100 and Section 5096 and authorize the Auditor-Controller to notify the Claimant of the Board's decision.

**ACTION:Consent**

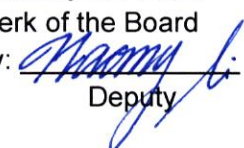
  
Ben J. Benoit, COUNTY AUDITOR-CONTROLLER 8/29/2024

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**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Perez, seconded by Supervisor Jeffries and duly carried, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Washington, Perez and Gutierrez  
Nays: None  
Absent: Spiegel  
Date: September 17, 2024  
xc: Auditor Controller

Kimberly A. Rector  
Clerk of the Board  
By:   
Deputy

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<b>FINANCIAL DATA</b>	<b>Current Fiscal Year:</b>	<b>Next Fiscal Year:</b>	<b>Total Cost:</b>	<b>Ongoing Cost</b>
<b>COST</b>	\$0	\$0	\$0	\$0
<b>NET COUNTY COST</b>	\$0	\$0	\$0	\$0
<b>SOURCE OF FUNDS:</b>			<b>Budget Adjustment:</b>	No
			<b>For Fiscal Year:</b>	2024-2025

**C.E.O. RECOMMENDATION:** Approve.

**BACKGROUND:**

**Summary**

The Auditor-Controller is required to calculate the tax rate necessary for the timely and accurate billing of property taxes in Riverside County. The California Constitution XIII, XIII A and various Revenue and Taxation Codes directs the counties on the property tax process, including State assessed unitary property. The Auditor-Controller's Office has received a property tax refund claim from a unitary property owner for taxes paid in 2019-20. The property owners' claim states the unitary property tax rate is in excess of the rate allowed by the California Constitution and has requested a combined refund of \$167,753.91 plus interest.

The Auditor-Controller's Office has followed all the requirements of Revenue and Taxation Code Section 100 directing the establishment and calculation of the unitary tax rate for tax year 2019-20. The unitary tax rates have been audited by the State Controller's Office and deemed calculated in compliance with State law. The Auditor-Controller is requesting the Board's authorization to deny the claim.

The California Constitution and Revenue and Taxation Code legislate property tax. Under Article XIII, Section 1 (a) all property is taxable. Under Section 19 the State Board of Equalization is required to annually assess property owned or used by regulated railway, telegraph, or telephone companies. This property shall be subject to taxation to the same extent and in the same manner as other property. Article XIII A Section 1 (a) states the maximum amount of any ad valorem tax on real property shall not exceed one percent (1%) of the full cash value of such property. The one percent (1%) tax to be collected by the counties and apportioned according to law to the districts within the counties. Section 1 (b) states the limitation provided for subdivision (a) shall not apply to ad valorem taxes or special assessments to pay the interest and redemption charges on any of the listed voter approved debt, such as school bonds. Revenue and Taxation Code Section 723 and 723.1 instructs the State Board of Equalization regarding valuing property and defines certain state assessed properties as "unitary property" and "non-unitary property". Revenue and Taxation Code Section 100 instructs the County how the values and revenues for unitary property shall be allocated. Section 100 (a) requires the County to establish one countywide tax rate area. The assessed value of all unitary and operating non-unitary property shall be assigned to this tax rate area. No

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,  
STATE OF CALIFORNIA**

other property shall be assigned to this tax rate area. Section 100 (b) requires property assigned to the tax rate area created by subdivision (a) to be taxed for the counties ad valorem tax levies at a rate as prescribed by a set formula.

The claimant has challenged the State requirements and stated they are entitled to a refund of a portion of their respectively paid 2019-20 unitary taxes plus interest, on the grounds the taxes were erroneously or illegally collected, or illegally assessed or levied, and gave the following reasons:

- a. The property tax rate applied to compute claimants' property tax was in excess of the rate applied in the same year to the property in the county assessed by the assessor of Riverside County in violation of Article XIII, section 19 of the California Constitution and *ITT World Communications v. City and County of San Francisco*, 37 Cal. 3d 859 (1985).
- b. The property tax rate applied to compute the claimants' property taxes exceeded the rate allowed by Article XIII A, Section 1 of the California Constitution.

In consultation with County Counsel, the Auditor-Controller's Office has reviewed the claim and the audited County practices for unitary taxation. Riverside County follows the requirements of Revenue and Taxation Code Section 100 for the calculation of the unitary tax rate. Therefore, the Auditor-Controller has determined that no refund is allowable to the property owner and requests the Board instruct the Auditor-Controller's Office to deny the claim.

If a board of supervisors for a county does not render a decision in regard to a claim for refund within six months after receipt of such claim, a claimant may file a suit in court. Also, a claimant would have 6 months to file a suit in court from the date a denial decision is made by a board of supervisors. According to the claimant, the claim from SFPP, L.P. was filed with the County in March 2024. Although the Clerk of the Board has no record of receiving the claim, the claimant provided proof of timely mailing to the department. Therefore, the department recommends treating the claim as timely filed as further described in Attachment A.

The County has six months after receipt to approve or deny the claim before the claimant may file suit in court. If the County does deny the claim, that starts a six-month statute of limitations in which the claimant must bring suit.

**Impact on Residents and Businesses**

If refunds were allowable by law, the refunds would impact primarily school districts and water districts of Riverside County with voter approved debt obligations.

**ATTACHMENT A:**

Summary of Claim

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STATE OF CALIFORNIA

**ATTACHMENT B:**

Claim for Refund – SFPP, L.P.

*Dolores Reyna*  
Dolores Reyna, Principal Management Analyst 9/6/2024

*Aaron Gettis*  
Aaron Gettis, Chief of Deputy County Counsel 9/5/2024



County of Riverside  
Auditor-Controller's Office  
Property Tax Division

Attachment A

Claim for Refund of Tax Payments

Assessee	Co.	Fiscal Year	Claim Amount	Date Received By County	Date Received By ACO
SFPP, L.P.	33-461	FY 2019-20	\$ 167,753.91	3/28/2024	8/20/2024
			<u>\$ 167,753.91</u>		





March 25, 2024

CERTIFIED MAIL/RETURN RECEIPT REQUESTED

County of Riverside  
Clerk, Board of Supervisors  
Attn: CLAIMS Division  
4080 Lemon Street - 5th Floor  
Riverside, California 92501

**CLAIM FOR PARTIAL REFUND OF 2019/2020 PROPERTY TAX PAYMENT**

To the Honorable Board of Supervisors,

Kinder Morgan, Inc., on behalf of SFPP, L.P., makes a claim for partial refund, in the amount of \$167,753.91, together with applicable interest, in connection with its payment of tax year 2019/2020 second installment property tax to Riverside County, as described below.

**Name and Address**

Taxpayer Name:	SFPP, L.P.
Address:	Kinder Morgan, Inc. 1001 Louisiana Street
City, State Zip:	Houston, TX 77002
Attention:	Edward Sklark, Vice President - Property Tax
Email:	<a href="mailto:Edward_Sklark@kindermorgan.com">Edward_Sklark@kindermorgan.com</a>
Telephone:	713.369.9256

**Property Description**

Assessed by:	California State Board of Equalization
Tax Rate Area:	000-001
Fiscal Year:	2019/2020 Tax Year
Second Installment Payment:	\$251,965.61
Amount of Claim:	\$167,753.91

## **BASIS for CLAIMED PARTIAL REFUND of PROPERTY TAX**

On April 2, 2020, SFPP, L.P. ("Claimant") remitted a second installment property tax payment for tax year 2019/2020, in the amount of \$251,965.61, to the County of Riverside (the "County").

This claim, filed within four (4) years of that payment, in accordance with California Revenue and Taxation Code ("Code") Section 5097, as interpreted in McDougall v. County of Marin (208 Cal.App.2d 65 (1962)), seeks a partial property tax refund in the amount of \$167,753.91, plus accrued interest.

Claimant is subject to the assessment jurisdiction of the California State Board of Equalization, pursuant to article XIII, section 19 of the California Constitution, which establishes that, "This [State-assessed] property shall be subject to taxation to the same extent and in the same manner as other property."

For tax year 2019/2020, the County applied a (Code Section 100(b)) tax rate of 1.7613% to the assessed value of Claimant's property.

For tax year 2019/2020, the County applied an (averaged Code Section 93) tax rate of 1.1750% to the assessed value of locally-assessed property.

The tax rate applied by the County to the assessed value of Claimant's property exceeded the tax rate applied by the County the assessed value of locally-assessed property.

Claimant asserts that the 2019/2020 tax rate applied by the County to the assessed value of Claimant's property violated article XIII, section 19 of the California Constitution.

On that basis, Claimant contends that, as a matter of law, it is entitled to a partial refund of its second installment property tax payment for tax year 2019/2020, in the amount of \$167,753.91, plus accrued interest, based on the difference between the tax rate applied by the County to the assessed value of Claimant's property and the averaged tax rate applied by the County to the assessed value of locally-assessed property.

**VERIFICATION**

STATE OF TEXAS  
COUNTY OF HARRIS

I have read the foregoing **CLAIM for PARTIAL REFUND of PROPERTY TAX** and know its contents.

I, Edward Sklark, am Vice President – Property Tax at Kinder Morgan, Inc., and am authorized to make this verification for and on behalf of SFPP, L.P., and I make this verification for that reason.

I am informed and believe, and on that basis confirm, that representations in the foregoing Claim for Partial Refund of Property Tax are true and correct.

I hereby certify and declare under penalty of perjury under the laws of the State of California that the tax amount sought to be partially refunded was paid; that the amount herein claimed is correct, and no part thereof has heretofore been refunded; and, that I am duly authorized to act on behalf of SFPP, L.P.

Executed on March 22, 2024, at Houston, Texas

Edward R. Sklark

*Edward Sklark*  
Vice President – Property Tax



**EXHIBIT 1**

**Tax Year 2019/2020 Property Tax Bill Issued to SFPP, L.P.  
by County of Riverside**



Jon Christensen  
Riverside County Treasurer - Tax Collector  
PO BOX 12005 Riverside, CA 92502-2205  
4080 Lemon St (1st Floor)  
Riverside, CA 92501

Telephone: (951) 955-3900  
Toll Free Number: 1 (877) 748-2689  
From area codes 951 & 760 only

10/9/2019

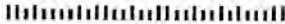
**RIVERSIDE COUNTY  
SECURED STATE ASSESSED  
PROPERTY TAX BILL**  
For Fiscal Year July 1, 2019  
through June 30, 2020

Visit our website: [www.countytreasurer.org](http://www.countytreasurer.org)

IMPORTANT MESSAGES	

Property Data: SEE ATTACHED BREAKDOWN SHEET(S)

Mailed to: SFPP, L.P.  
C/O KINDER MORGAN ENERGY PARTNERS, L.P.  
1100 TOWN & COUNTRY ROAD  
ORANGE CA 92868



State Assessed Number	Bill Number
33 - 0461	SBE
Owner January 1, 2019	
SFPP, L.P.	

Structures	\$28,610,835
Assessed Penalty	\$0
Full Taxable Value	\$28,610,835
Exemptions - Homeowner	\$0
Exemptions - Other	\$0
Net Taxable Value	\$28,610,835
<i>Ok to pay</i> <i>Sy</i>	
Tax Rate Per \$100 Value	
Taxes	\$503,931.22
Special Assessments & Fixed Charges	\$0.00
Total Base Tax Amount	\$503,931.22
Add 10% penalty after December 10, 2019	\$251,965.61
Add 10% penalty plus cost after April 10, 2020	\$251,965.61
	\$251,965.61

PLEASE KEEP TOP PORTION FOR YOUR RECORDS  
NO RECEIPTS WILL BE GIVEN - YOUR CANCELLED CHECK IS YOUR RECEIPT

**IMPORTANT INFORMATION ON REVERSE SIDE**

Check here for change of mailing address  
Please provide corrections on reverse side

DUE 02/01/2020	
PAY BY 04/10/2020	\$251,965.61
IF PAID AFTER 04/10/2020, ADD 10% PENALTY AND COST	\$26,234.61
DELINQUENT 2nd INSTALLMENT AMOUNT	\$277,200.22
For additional charges see item #5 on reverse	

RIVERSIDE COUNTY  
2019-2020 SECURED STATE ASSESSED TAX BILL  
PARTIAL PAYMENTS ARE NOT ACCEPTED

SEND THIS STUB WITH YOUR 2ND INSTALLMENT PAYMENT

State Assessed Number	Bill Number
33 - 0461	SBE

Pay taxes online by e-Check or by Credit/Debit card

ELECTRONIC CHECK  No Convenience Fee applies when paying by e-Check



Convenience Fee Applies for Credit/Debit  
[www.countytreasurer.org](http://www.countytreasurer.org)

Cannot be paid unless 1st installment is paid

**2nd  
Installment**  
Bill Printed On:  
10/9/2019

Check here for change of mailing address  
Please provide corrections on reverse side

DUE 11/01/2019	
PAY BY 12/10/2019	\$251,965.61
IF PAID AFTER 12/10/2019, ADD 10% PENALTY	\$26,196.55
DELINQUENT 1st INSTALLMENT AMOUNT	\$277,162.16
For additional charges see item #5 on reverse	

RIVERSIDE COUNTY  
2019-2020 SECURED STATE ASSESSED TAX BILL  
PARTIAL PAYMENTS ARE NOT ACCEPTED

SEND THIS STUB WITH YOUR 1ST INSTALLMENT PAYMENT

State Assessed Number	Bill Number
33 - 0461	SBE

Pay taxes online by e-Check or by Credit/Debit card

ELECTRONIC CHECK  No Convenience Fee applies when paying by e-Check



Convenience Fee Applies for Credit/Debit  
[www.countytreasurer.org](http://www.countytreasurer.org)

**1st  
Installment**  
Bill Printed On:  
10/9/2019

**EXHIBIT 2**

**Tax Year 2019/2020 Second Installment Payment by  
by SFPP, L.P. to County of Riverside**

04/02/2020  
04/02/2020

FEDWIRE DEBIT

485

3255300093JO

271,982.86

12:50 PM

S/R: STRAIGHT  
YOUR REF : 485  
PAID TO : UNION LA AKA UBOC MUFJ UNION BANK, N.A MONTEREY PARK CA 91755- US  
FED ID : 122000496  
ACCT PARTY : /2740029498 RIVERSIDE COUNTY TREASURER US  
REMARK : SBE 33-0461 2019-009614363 TAX TYPE11002 SFPP /TIME/12:49 CREDIT REF ATS OF 20/04/02  
REC GFP : 04021647  
MRN SEQ : 00093JO32553  
FED REF : 0402 B1QGC07C 011644 \*\*VIA FED\*\*