

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

**TENTATIVE RESOLUTION NO. R2-2010-XXXX
ADOPTION OF NEGATIVE DECLARATION FOR THE SFPP, L.P. SAN JOSE
TERMINAL, SAN JOSE, SANTA CLARA COUNTY.**

WHEREAS:

1. On June 19, 2006, staff at the Water Board issued a 13267 letter requiring submittal of technical reports/information regarding characterization and cleanup of fuel hydrocarbons at the Kinder Morgan San Jose Terminal (site). The letter was issued based on the existing threats to water quality posed by fuel hydrocarbon releases at the facility. In response to the requirement, a Monitored Natural Attenuation (MNA) Evaluation in Support of the Remedial Action Plan (December 15, 2006), Remedial Action Plan (July 27, 2007), and Remedial Action Plan Addendum (October 8, 2009) were prepared for the site;
2. On May 6, 2010, the Water Board provided to the public, responsible agencies, trustee agencies, and other interested persons, Tentative Site Cleanup Requirements to implement the MNA remedy at the site;
3. The Board has assumed the lead agency role for approving the Project under the California Environmental Quality Act (CEQA at Public Resources Code § 21000 et seq.) and has conducted an Initial Study in accordance with Title 14, California Code of Regulations, § 15063 and prepared a Negative Declaration in accordance with Title 14, California Code of Regulations, § 15070 et seq. The Initial Study did not identify any potentially significant impacts;
4. On May 6, 2010, the Board provided a Notice of Completion to adopt the Negative Declaration to the public, responsible agencies, trustee agencies, and other interested persons. The Board also published the Notice of Completion in the local newspaper in the area affected by the Project, noting availability of the Negative Declaration and supporting Initial Study and related project documents at the Board's offices, the Board's website, and the San Jose public library;
5. On May 6, 2010, the Negative Declaration and supporting Initial Study were transmitted by the State Clearinghouse (SCH No. 2010052007) and copies were independently mailed to all agencies and persons known to be interested in this matter, thus initiating a 30 day public review and comment period;
6. The Board has received and considered comments on the Negative Declaration and supporting documents;
7. The Board finds that on the basis of the whole record that there is no substantial evidence that the Project will have a significant effect on the environment. The

Negative Declaration, all supporting documentation, and the record of proceedings are available at the Board's offices;

8. The Negative Declaration reflects the independent judgment and analysis of the Board; and
9. The Board considered all testimony and evidence at a public hearing held July 14, 2010 in Oakland, California, and good cause was found to adopt the Negative Declaration.

THEREFORE BE IT RESOLVED, that the Board hereby adopts the Negative Declaration for the Project.

I, BRUCE H. WOLFE, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of the resolution adopted by the California Regional Water Quality Control Board, San Francisco Bay Region on July 14, 2010.

Bruce H. Wolfe
Executive Officer