



**Terry Tamminen**  
Secretary for  
Environmental  
Protection

# State Water Resources Control Board

## Executive Office

1001 I Street • Sacramento, California 95814 • (916) 341-5615  
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*Robert Conry*  
**Arnold Schwarzenegger**  
Governor

**AUG 13 2004**

SFPP, L. P. Operating Partnership-  
Kinder Morgan Energy Partners, L. P.  
*Attention:* Mr. Daniel Weinberg  
URS Corporation Biologist  
1330 Broadway, Suite 800  
Oakland, CA 94612

Dear Mr. Weinberg:

**AMENDMENT OF ORDER FOR TECHNICALLY CONDITIONED WATER QUALITY CERTIFICATION: SFPP, L. P., ANOMALY INSPECTIONS AND REPAIRS ON LINE SECTION 47, DIG SITE 12 IN CONTRA COSTA, SOLANO, AND YOLO COUNTIES (CORPS FILE NUMBER 284910N)**

This is in response to your March 26, 2004 request to amend the State Water Resources Control Board (SWRCB's) January 16, 2003 Order for Technically Conditioned Water Quality Certification (Enclosure A) for the above referenced project. This request was prompted by a change in maintenance procedures at Line Site 47, Dig Site 12 at Cordelia Slough, Solano County, as described in Enclosure B to this Amendment. On June 22, 2004, you completed submittal of all technical information requested by the staffs of the SWRCB and the San Francisco Bay Regional Water Quality Control Board (RWQCB). We have determined that the proposed change of maintenance procedures will not cause significant additional impact to the environment.

I hereby amend the January 16, 2003 certification order to reflect the revised pipeline maintenance procedure for Line Section 47, Dig Site 12. The following conditions are hereby incorporated into the project's January 16, 2003 certification order:

1. **Endangered Species:** The project shall not result in the taking of any endangered, threatened, or candidate species or the habitat of such species unless the activity is authorized pursuant to the State or federal Endangered Species Acts.
2. **Toxic Substances:** The project shall not discharge substances in concentrations toxic to human, plant, animal, or aquatic life or that produce detrimental physiological responses.
3. **Hazardous Substances:** The project shall not discharge waste classified as "hazardous" as defined in Title 22 California Code of Regulations section 66261 and California Water Code section 13173.

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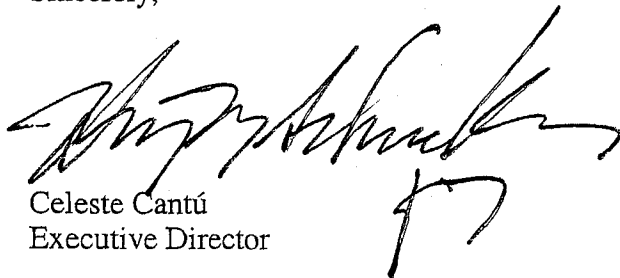
4. **"Frac-out Contingency Plan:"** In the event that a frac-out occurs during the project's construction, it shall be the responsibility of the project proponent and its contractors to implement the project's *"Frac-out Contingency Plan"* which was prepared by URS Corporation under Contract No. 03-3119, and submitted to the 401 Program staffs of the SWRCB and RWQCB on June 22, 2004.
5. **Buffers:** Water body buffers (extra work area setbacks, refueling restrictions, etc.) must be clearly marked in the field with signs and/or highly visible flagging until construction-related ground disturbing activities are complete.
6. **Pumped Water Discharge:** The discharge of pumped surface water during Horizontal Directional Drilling operation of the project shall not cause stream channel or earth-surface erosion, or cause the deposition of sand, silt, or sediment to a natural water body.
7. **Notice of Project Completion:** The project applicant shall provide the 401 Program Managers of the RWQCBs a "Notice of Project Completion" immediately after project completion and before starting the operation of the pipeline system. The notice shall document that the entire project was constructed in compliance with the January 16, 2003 certification order, as modified by this amendment, or document any deviations from the requirements. The notice shall be forwarded to the "Program Manager, 401 Water Quality Certification Program," addressed at:

Central Valley Regional Water Quality Control Board  
11020 Sun Center Drive, #200  
Rancho Cordova, CA 95670

San Francisco Bay Regional Water Quality Control Board  
1515 Clay Street, Suite 400  
Oakland, CA 94612

If you have questions regarding this letter, please direct them to Ruben A. Guieb, Environmental Scientist, Water Quality Certification Unit of the SWRCB, at 916-341-5464 or email: [guier@dwq.swrcb.ca.gov](mailto:guier@dwq.swrcb.ca.gov). You may also contact Oscar Balaguer, Chief, Water Quality Certification Unit of the SWRCB, at 916-341-5485 or email: [balao@dwq.swrcb.ca.gov](mailto:balao@dwq.swrcb.ca.gov).

Sincerely,



Celeste Cantú  
Executive Director

Enclosures

cc: (See next page)

*California Environmental Protection Agency*

AUG 13 2004

cc: (Continuation page)

Mr. Tim Vendlinsky  
Wetlands Regulatory Office  
U.S. Environmental Protection Agency, Region 9  
75 Hawthorne Street  
San Francisco, CA 94105

Mr. Calvin C. Fong, Chief  
San Francisco District Office  
U. S. Army Corps of Engineers  
333 Market Street  
San Francisco, CA 94105

Mr. Michael Finan, Chief  
Sacramento, San Joaquin Delta Section  
Regulatory Branch Sacramento District Office  
U. S. Army Corps of Engineers  
1325 J Street  
Sacramento, CA 95814

Mr. Chris Nagano  
Sacramento Office  
U. S. Fish & Wildlife Service  
2800 Cottage Way  
Sacramento, CA 92825

Mr. Rick Kuyper  
Sacramento Office  
U. S. Fish & Wildlife Service  
2800 Cottage Way  
Sacramento, CA 92825



**Winston H. Hickox**  
Secretary for  
Environmental  
Protection

# State Water Resources Control Board

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**Gray Davis**  
Governor

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For a list of simple ways you can reduce demand and cut your energy costs, see our website at <http://www.swrcb.ca.gov>.*

ENCLOSURE A

January 16, 2003

Mr. David D. Cornman, Director  
Project Permitting  
Kinder Morgan Energy Partners, L.P.  
1100 Town and Country Road  
Orange, CA 92868

**ORDER FOR TECHNICALLY CONDITIONED WATER QUALITY CERTIFICATION:  
SFPP, L.P., ANOMALY INSPECTIONS AND REPAIRS ON LINE SECTIONS 25 AND 47 IN  
CONTRA COSTA, SOLANO, AND YOLO COUNTIES**

This order responds to your request for water quality certification for the subject project. We understand that SFPP, L.P. is the operating partnership for Kinder-Morgan Energy Partners, L.P.

(Kinder-Morgan) for this project. State Water Resources Control Board (SWRCB) staff received your complete application on October 15, 2002 from San Francisco Bay Regional Water Quality Control Board staff.

### ACTION:

1. ☐ Order for Standard Certification
2. ☒ Order for Technically-Conditioned Certification
3. ☐ Order for Denial of Certification

### STANDARD CONDITIONS:

The following four standard conditions apply to all certification actions.

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to section 13330 of the California Water Code and Article 6 (commencing with section 3867) of Chapter 28, Title 23 of the California Code of Regulations (CCR 23).

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2. This certification action is not intended and shall not be construed to apply to any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to subsection 3855(b) of Chapter 28, CCR 23; and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. This certification is conditioned upon total payment of any fee required under Chapter 28, CCR 23, and is owed by the applicant.
4. Enforcement
  - a. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, processes, or sanctions provided for under State law. For purposes of section 401(d) of the federal Clean Water Act, the applicability of any State law authorizing remedies, penalties, processes, or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification.
  - b. In response to a suspected violation of any condition of this certification, the State Water Resources Control Board (SWRCB) may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports SWRCB deems appropriate, provided that the burden, including the cost of the reports, shall be in a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
  - c. In response to any violation of the conditions of this certification, SWRCB may add to or modify the conditions of this certification, as appropriate, to ensure compliance.

**ADDITIONAL CONDITIONS:**

1. No debris, soil, silt, sand, cement, concrete, or washings thereof, or other construction related materials or wastes, oil or petroleum products, or other organic or earthen material shall be allowed to enter into or be placed where it may be washed by rainfall or runoff into waters of the State.
2. When operations are completed any excess material shall be removed from the work area and from any areas adjacent to the work area where such material may be washed into waters of the State.
3. All fuel or oil containers requiring accidental spill containment shall be contained as required by federal regulations.

4. Any oil or grease leaks shall be immediately cleaned up.
5. No equipment maintenance shall be done within or near any water body where petroleum products or other pollutants from the equipment may enter the water body.
6. Staging and storage areas for equipment and materials shall be located outside of the water body.
7. An environmental monitor shall be present during construction to ensure compliance with the measures stated above. The monitor shall have demonstrated experience in monitoring sensitive resource issues on construction projects. The monitor shall have the authority to halt construction activities, if necessary, when noncompliance actions occur.
8. The applicant shall submit annual reports for five years (due December 1) to SWRCB and the San Francisco Bay and Central Valley Regional Water Quality Control Boards (Regional Boards) documenting the progress, success, and any failures of the compensatory mitigation project. The reports shall be as described in the July 2, 2002 "SFPP LS 25 Maintenance Inspection and Repair Habitat Mitigation and Monitoring Plan" prepared by SFPP, L.P. and URS Corporation.

#### **WATER QUALITY CERTIFICATION:**

I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the federal Clean Water Act, and with other applicable requirements of State law.

Except insofar as may be modified by any preceding conditions, all certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the applicant project description and the enclosed Project Information Sheet, and (b) compliance with all applicable requirements of the San Francisco Bay and Central Valley Regional Boards' Water Quality Control Plans (Basin Plans).

If you have any questions regarding this Order, please contact Dawit Tadesse, Environmental Scientist, at (916) 341-5486 or e-mail: [taded@dwq.swrcb.ca.gov](mailto:taded@dwq.swrcb.ca.gov). You may also contact

Mr. David D. Cornman

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Oscar Balaguer, Chief, Water Quality Certification Unit, at (916) 341-5485 or e-mail:  
[balao@dwq.swrcb.ca.gov](mailto:balao@dwq.swrcb.ca.gov).

Sincerely,

/s/

Celeste Cantú  
Executive Director

Enclosure

cc: Ms. Loretta K. Barsamian  
Executive Officer  
San Francisco Bay Regional Water  
Quality Control Board  
1515 Clay Street, Suite 1400  
Oakland, CA 94612

Mr. Thomas R. Pinkos  
Executive Officer  
Central Valley Regional Water  
Quality Control Board  
3443 Routier Road, Suite A  
Sacramento, CA 95827

Mr. Michael Finan  
Sacramento District Office  
U.S. Army Corps of Engineers  
1325 J Street  
Sacramento, CA 95814-2922

Mr. Calvin C. Fong  
San Francisco Office  
U.S. Army Corps of Engineers  
333 Market Street  
San Francisco, CA 94105-2197  
Mr. Timothy Vendlinski (WTR-8)  
Wetland Section Chief  
U.S. Environmental Protection Agency,

*California Environmental Protection Agency*

Mr. David D. Cornman

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Region 9  
75 Hawthorne Street  
San Francisco, CA 94105

U.S. Fish and Wildlife Service  
Sacramento Office  
2800 Cottage Way  
Sacramento, CA 92825

bc: Lori Okun, OCC  
Stephen Berger, SFB RWQCB  
Patrick Gillum, CV RWQCB

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**Enclosure**

**PROJECT INFORMATION**

**Application Date:** November 27, 2002

**Applicant:** David D. Corman  
Kinder Morgan Energy Partners, L.P.  
1100 Town and Country Road  
Orange, CA 92868

**Project Name:** 2002 SFPP, L.P. Line Section 25/47 Pipeline Inspection and Repairs

**Project Location:** Located along Line Sections (LS) 25 and 47, linear pipelines running from Concord to Sacramento and Concord to Suisun City, respectively. The pipelines primarily follow the Southern Pacific Railroad right-of-way along the Concord shoreline and within Suisun Marsh.

**Project Description (purpose/goal):** The purpose is to maintain and repair pipelines LS 25 and LS 47. There are a total of 53 pipeline inspection and repair sites (dig sites) within jurisdictional waters, including 45 sites on LS 25 and eight sites on LS 47. The inspection and repair work for each site will take three to four days. The area of excavation will be approximately 20 feet by 10 feet by 4 feet deep at each dig site. Equipment necessary for this work will include a backhoe, hand shovels, and a welding truck.

**County:** Contra Costa, Solano, and Yolo.

**Receiving Water(s) Name(s) and types(s):** Pacheco Creek, Peytonia Slough, Suisun Marsh, Alamo Creek, and Ulatis Creek

**Fill/Excavation Area (acres):** There will be no permanent impacts. The following table indicates temporary impacts in both area and volume of disturbance (i.e., for each habitat type a total of 30 cubic yards will be excavated over a 0.02 acre area).

**Temporary Impacts**

Wetland Habitat	Excavation Area (Acres)	Excavation Volume (Cubic Yards)
Wetland: non-native grass (LS 25)	0.02	30
Wetland: rushes (LS 25)	0.02	30
Wetland: grassland (LS47)	0.02	30
Wetland: rushes (LS 47)	0.02	30
Total	0.08	120

**Non-Compensatory Mitigation:** None

**Compensatory Mitigation:** Kinder-Morgan will enhance a minimum of four (4.0) acres of tidal marsh wetlands at the Rush Ranch Preserve south of Fairfield at the Bridge and Hill Slough Sites. The Bridge Site is located on the west side of Grizzly Island Road, immediately south of the Hill Slough Bridge. The Hill Slough Site is located west of Grizzly Island Road, approximately 0.5 mile south of the Hill Slough Bridge. A long-term management endowment will be provided to Solano Land Trust, the responsible managing agency.

**U.S. Army Corps of Engineers Permit Number:** Nationwide Permit (NWP) 3, Maintenance

**Status of CEQA:** The State Water Resources Control Board has determined that this project is categorically and statutorily exempt from California Environmental Quality Act (CEQA) pursuant to CEQA sections 21080.21 and 21080.23 and CEQA Guidelines section 15301. A notice of exemption was filed with the Governor's Office of Planning and Research on December 23, 2002.

## ENCLOSURE B

# AMENDMENT OF ORDER FOR TECHNICALLY CONDITIONED WATER QUALITY CERTIFICATION: SFPP, L. P., ANOMALY INSPECTIONS AND REPAIRS ON LINE SECTION 47, DIG SITE 12 IN CONTRA COSTA, SOLANO, AND YOLO COUNTIES

### PROJECT INFORMATION SHEET

1.	Applicant & Agent	<p>SFPP, L. P. Operating Partnership to Kinder Morgan Energy Partners, L. P. (SFPP)</p> <p>Applicant's Agent: Mr. Daniel Weinberg URS Corporation 1330 Broadway, Suite 800 Oakland, CA 94612</p>
2.	Project Purpose and Description	<p><b>Title:</b> Amendment of Order for Technically Conditioned Water Quality Certification: SFPP, L. P., Anomaly Inspections and Repairs on Line Section 47, Dig Site 12 in Contra Costa, Solano, and Yolo Counties</p> <p><b>Purpose:</b> Repair weak spot in SFPP's Line Section 47, an 8" pipeline delivering petroleum products from Benicia to West Sacramento.</p> <p><b>Description:</b> The original maintenance procedure for Line Section 47, Dig Site 12 involved de-watering and excavation (20 feet by 10 feet, at a depth of 4 feet) to allow replacement of a 400-foot section of damaged pipeline underneath Cordelia Slough. The revised maintenance procedure involves the use of "Horizontal Directional Drill" (HDD), wherein high-pressure fluid-operated drilling equipment will be used to replace the damaged pipeline. Due to HDD's less intrusive nature on saturated soils, wetlands, and riparian areas, it is commonly used in ecologically sensitive waterway crossings.</p>
3.	Receiving Water(s) Name	Cordelia Slough
4.	Water Body Types/ Area of Filled/ Excavated (Acres)	0.15 acres of salt marsh (harvest mouse habitat)
5.	Federal Permit(s)	<p><b>Nationwide Permit 3:</b> U.S. Army Corps of Engineers, San Francisco District, File # 284910N</p> <p><b>Biological Opinion:</b> USFWS: Permit File # 1-1-04-F-186 (June 28, 2004)</p>
6.	Non-Compensatory Mitigation	<p>Proposed "Avoidance and Minimization Measures" and "Mitigation Measures" (pages 7 &amp; 8, respectively) are described in the applicant's March 26, 2004 letter of request to amend the project's certification order.</p> <p>All temporarily disturbed water bodies, including wetlands and riparian areas, shall be returned to their pre-construction condition, as described in the applicant's June 28, 2004 Memorandum.</p>
7.	Compensatory Mitigation	<p><b>Wetland Compensatory Mitigation:</b> This certification amendment requires compensatory mitigation of 0.45 acres (3:1 ratio) for the 0.15 acres of temporary impact to the endangered Salt Marsh Harvest Mouse habitat, as required by the US Fish and Wildlife Service's June 28, 2004 amended <i>Programmatic Biological Opinion</i> (USFWS File No. 1-1-04-F186). Compensation will be provided at an offsite mitigation bank (Solano Land Trust Conservation).</p>
8.	Additional Information	This project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA sections 21080.21 and 21080.23 and CEQA Guidelines section 15301.