



Terry Tamminen
Secretary for
Environmental
Protection

State Water Resources Control Board

Executive Office

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Arnold Schwarzenegger
Governor

SEP 2 2004

Mr. Edward Ferrer, Director
Special Projects & Business Development Projects
SFPP, L. P. Operating Partnership to
Kinder Morgan Energy Partners, L. P. (SFPP)
1100 Town and Country Road
Orange, CA 92868

Dear Mr. Ferrer:

**ORDER FOR TECHNICALLY-CONDITIONED WATER QUALITY CERTIFICATION:
SFPP, L.P. ANOMALY INSPECTION AND REPAIR ON LINE SECTION 25
(CORPS FILE #28928N AND #29052N) IN SOLANO AND YOLO COUNTIES**

This Order responds to your August 9, 2004 request for Clean Water Act (CWA) section 401 Water Quality Certification (Certification) for the subject project, which involves repair of pipeline anomalies (potential weak spots) recently discovered in Line Section (LS) 25, a 14 inch pipeline delivering petrochemicals from Concord to West Sacramento. The State Water Resources Control Board (SWRCB) originally certified repair-related discharges for LS 25 (and for another pipeline, LS 47) on January 16, 2003. On July 14, 2004, the SWRCB issued another Certification for twenty-eight (28) anomalies. The current Certification is for eighteen (18), more recently discovered, additional anomalies.

After an April 27, 2004 pipeline rupture that caused a massive oil spill to Suisun Marsh from LS 25, the U.S. Department of Transportation required inspection and maintenance of the pipeline. Excavations (dig sites) are required to repair areas of the pipeline where anomalies have been detected. Because work must be accomplished prior to the rainy season and because of the potential for additional oil spills, SFPP is requesting Certification as soon as possible.

ACTION

- | | |
|---|---|
| <input type="checkbox"/> Order for Standard Certification | <input type="checkbox"/> Order for Denial of Certification |
| <input checked="" type="checkbox"/> Order for Technically-Conditioned Certification | <input type="checkbox"/> Order for Waiver of Waste Discharge Requirements |



STANDARD CONDITIONS:

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).
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 owed by the applicant.

ADDITIONAL CONDITIONS:

- 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 and/or federal Endangered Species Acts.
2. **Other State Permits:** The project applicant shall comply with all applicable National Pollutant Discharge Elimination System permits and Waste Discharge Requirements.
3. **Toxic Substances:** The project shall not discharge substances in concentrations toxic to human, plant, animal, or aquatic life or that produce detrimental physiological responses.
4. **Hazardous Substances:** The project shall not discharge waste classified as "hazardous" as defined in Title 22 CCR section 66261 and California Water Code section 13173.
5. **Certified Discharges:** This Certification applies only to those anomaly sites on LS 25 shown in Enclosure 1, which were identified in the applicant's August 9, 2004 401 application. No other discharges to waters of the State are authorized by this Certification.
6. **Riparian Vegetation:** The applicant shall consult (via email, letter, or telephone) with the affected Regional Water Quality Control Board (RWQCB) 401 Water Quality Certification Program Manager(s) at least 48 hours prior to carrying out any unavoidable disturbance of riparian vegetation.

7. **Work Within Rhodia Peyton Slough Remediation Project Area (RPSRP):** If pipeline maintenance is adjacent to the RPSRP, the applicant shall notify via email or telephone the San Francisco Bay RWQCB, Groundwater Protection Division (primary contact: Ms. Priya Ganguli, (510) 622-2427; email Pg@rb2.swrcb.ca.gov), at least 48 hours prior to commencing work in the area to ensure avoidance of conflicts with the remediation goals of the RPSRP.
8. **Notice of Project Completion:** The project applicant shall provide the affected RWQCB 401 Program Manager(s) a "Notice of Completion" (NOC) within 45 days of completion of LS 25 pipeline repairs authorized by this Certification. The NOC shall document whether the repairs on LS 25 conform to the project's description. The NOC shall be submitted to the "Program Manager, 401 Water Quality Certification Program" of the RWQCBs, addressed to:

Central Valley Regional Water Quality Control Board
Sacramento Office
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670-6114

San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

A copy of the NOC shall be sent to the SWRCB staff identified at the end of this Certification letter.

9. **Wetland Compensatory Mitigation and Reporting:** No later than December 17, 2004, the applicant shall provide a report to the SWRCB and RWQCB documenting the status of compliance with the project's compensatory and other mitigation requirements, including Condition 10(G) of this Certification and in the enclosed Project Information Sheet (Enclosure 2).
10. **Additional Management Practices:** In addition to the management practices and mitigation measures specified in SFPP's August 9, 2004 application, the project applicant and its contractors shall apply the following practices:
 - A. **Non-permitted Discharges.** 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, except as specifically authorized by this Certification.
 - B. **Hazardous and Toxic Material Management.** The applicant and its contractors shall structure their operations in a manner that reduces the risk of spills or the accidental discharge of fuels or hazardous materials to water bodies or wetlands. The applicant and its contractors must, at a minimum, ensure that:

- (i) all employees handling fuels and other hazardous materials are properly trained;
all equipment is in good operating order and inspected on a regular basis;
fuel trucks transporting fuel to on-site equipment travel only on approved access roads;
staging and storage areas for equipment and materials shall be located at least 100 feet from any natural water body or wetland. All equipment shall be parked overnight and/or fueled at least 100 feet from a water body or in an upland area at least 100 feet from a wetland boundary. These activities can occur closer only if the environmental monitor required by Condition 10 (F) of this Certification finds, in advance, no reasonable alternative and the applicant and its contractors have taken appropriate steps (including secondary containment structures) to prevent spills and provide for prompt cleanup in the event of a spill;
 - (v) 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;
 - (vi) hazardous materials, including chemicals, fuels, and lubricating oils, are not stored within 100 feet of a wetland or water body unless the location is designated for such use by an appropriate governmental authority. This applies to storage of these materials and does not apply to normal operation or use of equipment in these areas; and
 - (vii) concrete coating activities are not performed within 100 feet of a wetland or a water body boundary, unless the location is an existing industrial site designated for such use.
- C. *Cleanup Requirements.* When work at each dig site is completed, excess material shall be immediately 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.
- D. *Spill Management.* The project applicant and its contractors shall structure their repair operations in a manner that provides for the prompt and effective cleanup of spills of fuel and other hazardous materials. At a minimum, the project sponsor and its contractors shall:
- (i) ensure that each construction and cleanup crew has on hand and sufficient supplies of absorbent and barrier materials to allow the rapid containment and recovery of spilled materials, and knows the procedure for reporting spills;
 - (ii) ensure that each construction crew has on hand sufficient tools and material to stop leaks;

know the contact names and telephone numbers for all local, State, and federal agencies (including, if necessary, the U.S. Coast Guard and the National Response Center) that must be notified of a spill; and

follow the requirements of those agencies in cleaning up the spill, in excavating and disposing of soils or other materials contaminated by a spill, and in collecting and disposing of waste generated during spill cleanup.

- E. *Signage.* 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.
 - F. *Environmental Monitor.* The project shall provide an environmental monitor that will be present at all pipeline anomaly repair operations. The monitor shall have demonstrated experience in monitoring sensitive resources on construction projects. The monitor shall have the authority to halt the project, if necessary, when non-compliance actions occur or may occur.
 - G. *Site Rehabilitation.* All disturbed water bodies, including wetlands and riparian areas, shall be returned to their pre-construction condition.
 - H. *Weed Control.* The applicant shall ensure that pipeline repair-related activities shall not cause the spread of noxious weeds.
 - I. *Erosion Control.* The discharge of pumped water from any of the dig site excavations shall not cause stream channel or earth surface erosion, or cause the deposition of sand, silt, or sediment to a natural water body.
1. **Enforcement:** 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 as provided for under State law. For purposes of CWA section 401(d), 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 Order.
- A. In response to a suspected violation of any condition of this Certification Order, the 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 the SWRCB deems appropriate, provided that the burden, including cost of the reports, shall be in reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
 - B. In response to any violation of the conditions of this Certification Order, the SWRCB may add to or modify the conditions of this Certification as appropriate to ensure compliance.

WATER QUALITY CERTIFICATION:

I hereby issue an order certifying that discharges 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 CWA, and with other applicable requirements of State law. This discharge is also regulated under SWRCB Order No. 2003-0017-DWQ, *General Waste Discharge Requirements for Dredged or Fill Discharges That Have Received State Water Quality Certification*, which requires compliance with all conditions of this Certification. This General Waste Discharge Requirement can be accessed at <http://www.swrcb.ca.gov/cwa401/index.html>.

All certification actions are contingent on (a) compliance with the conditions specified in this Certification Order, (b) the discharge being limited and all proposed mitigation being completed in compliance with the applicant's project description and the enclosed Project Information Sheet (Enclosure 2), and (c) compliance with all requirements of the RWQCBs' Water Quality Control Plans.

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

Sincerely,


Celeste Cantú
Executive Director

Enclosures (2)

cc: Mr. Tim Vendlinski
Wetlands Regulatory Office (WTR-8)
U.S. Environmental Protection Agency
Region 9
75 Hawthorne Street
San Francisco, CA 94105

cc (Continued next page)

cc: (Continuation page)

Ms. Jane M. Hicks, Chief
Regulatory Branch, Northern Section
San Francisco District
U.S. Army Corps of Engineers
333 Market Street
San Francisco, CA 94105-2197

Mr. Thomas Cavanaugh, Chief
Regulatory Branch, Sacramento Valley Office
Sacramento District
U.S. Army Corps of Engineers
1325 J Street
Sacramento, CA 95814-2922

National Marine Fisheries Service
National Oceanic and Atmospheric Administration
Capitol Mall, Suite 8-300
Sacramento, CA 95814-4706

Sacramento Fish and Wildlife Office
U.S. Fish and Wildlife Service
2800 Cottage Way, Room W-2605
Sacramento, CA 95825-1846

Ms. Mary Brown
Rhodia, Inc.
259 Prospect Plains Road
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Cranbury, NJ 08512

Mr. Nick Ricono
TRC Customer-Focused Solutions
21 Technology Drive
Irvine, CA 92618