



State Water Resources Control Board

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Terry Tamminen
Secretary for
Environmental
Protection

Executive Office

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Arnold Schwarzenegger
Governor

APR 28 2004

Mr. David Cornman
SFPP, L. P. Operating Partnership to
Kinder Morgan Energy Partners, L. P. (SFPP)
1100 Town and Country Road
Orange, CA 92868

Dear Mr. Cornman:

**ORDER FOR TECHNICALLY-CONDITIONED WATER QUALITY CERTIFICATION:
CONCORD TO SACRAMENTO PIPELINE PROJECT (CORPS SACRAMENTO DISTRICT
FILE # 200100556 AND CORPS SAN FRANCISCO DISTRICT FILE # 264495)**

This Order responds to your January 26, 2004 letter of re-activation of your application for Clean Water Act (CWA) section 401 Water Quality Certification for the referenced project. The staffs of the State Water Resources Control Board (State Board), the San Francisco Bay Regional Water Quality Control Board (Regional Board), and the Central Valley Regional Board appreciate the expertise and cooperation of the project's consultant, URS Corporation, with whom State and Regional Board staffs resolved the project's numerous water quality issues since the submittal of the project's permit application in October 2002. The resulting measures to protect water quality and beneficial uses of waters of the State are incorporated into the project documents listed in this certification and enclosure.

ACTION

- Order for Standard Certification
- Order for Technically-Conditioned Certification
- Order for Denial of Certification
- 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:

Measures to protect water quality and beneficial uses of waters of the State are included in the five publications identified in the enclosed "Project Information Sheet" ("Non-Compensatory Mitigation" and "Compensatory Mitigation"). The measures are summarized in the following two documents:

- URS' February 17, 2004, *Summary of Comprehensive Mitigation Measures Related to Section 401 Water Quality Certification: Concord To Sacramento Pipeline Project (Wetland Mitigation and Monitoring Plan)*.
- Table 3-1, "Proposed Mitigation For Temporal Impacts" included in URS' January 26, 2004 *Wetland Mitigation and Monitoring Plan: Concord to Sacramento Pipeline Project*.

All these protective provisions are hereby incorporated into the terms of this certification, and the following additional requirements are specified:

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. **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. **Impacts to Waters of the State:** This certification applies only to those discharges and impacts shown in Tables 2-1 and 2-2 of URS' January 26, 2004 *Wetland Mitigation and Monitoring Plan Concord to Sacramento Pipeline Project*". No other discharges to waters of the State are authorized by this certification.

6. **Trench Dewatering Discharges in the San Francisco Region:** Prior to construction, groundwater sampling and analysis shall occur at dewatering sites according to the procedures identified in URS' February 24, 2004 *Dewatering and Hydrostatic Test Water Discharge Plan – Concord to Sacramento Pipeline Project (Dewatering and Hydrostatic Test Water Discharge Plan)*, and Measure HS-2a (Dewatering) of URS' February 17, 2004 *Summary of Comprehensive Mitigation Measures Related to Section 401 Water Quality Certification: Concord to Sacramento Pipeline Project (Comprehensive Mitigation Measures)*. The applicant shall conduct pre-project groundwater sampling as summarized in the table electronically provided by URS in an email on March 6, 2004.

Groundwater sample locations and number of samples per location.

Water Crossing Identification	Water Crossing Description	Number of Hydropunch Locations
1	Walnut/Grayson Creek	2* (one on each side of creek)
2	Pacheco Creek	1**
3	Peyton Slough (future align)	2* (one on each side of slough)
5	Sulphur Springs Creek	2* (one on each side of creek)
5A	Stream/Railroad	1**
7	Unnamed Stream	1**
8	Unnamed Stream	1**
8A	Unnamed Stream	1**
19A	Wetland Channel	1**
20	Stream/Railroad	1**
22	McCoy Creek Culvert	1**

* One (1) sample to be collected from each hydropunch location.

** Two (2) samples to be collected (20 minutes apart) at hydropunch location.

Trench dewatering discharges within the San Francisco Bay Region shall comply with the discharge limitations stated in San Francisco Bay Regional Board's Order No. 01-100, *General Waste Discharge Requirements for Discharge or Reuse of Extracted and Treated Groundwater Resulting from the Cleanup of Groundwater Polluted by Fuel Leaks and Other Related Wastes at Service Stations and Similar Sites* and in Order No. 99-051, *General Waste Discharge Requirements for Discharge or Reuse of Extracted and Treated Groundwater Resulting from the Cleanup of Groundwater Polluted by Volatile Organic Compounds*.

7. **Hydrostatic Test Water Discharges For New Pipelines in the San Francisco Bay Region:**

In addition to those measures listed in URS' February 24, 2004 *Dewatering and Hydrostatic Test Water Discharge Plan*, the following conditions apply:

- a) Prior to any discharge to Carquinez Strait between June 1 and September 30, the applicant shall coordinate with the National Oceanic and Atmospheric Administration (NOAA), the National Marine Fisheries Service (NMFS), Southwest Region to establish that the bulk of the Chinook salmon run has not begun. The applicant shall document its coordination with the agency, and provide the Program Manager, 401 Water Quality Certification Program, San Francisco Bay Regional Board a copy of the document to the address provided below in condition number 10 of this Order. The applicant shall not discharge to Carquinez Strait at any time during the above stated period if NOAA, NMFS, Southwest Region determines that the bulk of the Chinook salmon run is in progress.
 - b) From October 1 to October 31, if salmon are present in Carquinez Strait, test water generated north of the Carquinez Strait shall be discharged to Sulphur Springs Creek and test water generated south of the Carquinez Strait shall be discharged to Walnut Creek or other local creeks.
 - c) From October 31 to November 30, test water generated north of the Carquinez Strait shall be settled and filtered prior to discharge to Sulphur Springs Creek.
 - d) The hydrostatic test water discharge resulting from the project activities shall comply with the discharge limitations stated in San Francisco Bay Regional Board's Order No. 01-100, *General Waste Discharge Requirements for Discharge or Reuse of Extracted and Treated Groundwater Resulting from the Cleanup of Groundwater Polluted by Fuel Leaks and Other Related Wastes at Service Stations and Similar Sites* and in Order No. 99-051, *General Waste Discharge Requirements for Discharge or Reuse of Extracted and Treated Groundwater Resulting from the Cleanup of Groundwater Polluted by Volatile Organic Compounds*.
 - e) To avoid channel erosion, increased turbidity, and creation of false flows for fish, discharges to any receiving natural water body shall not exceed a flow rate of one (1) cubic feet per second.
8. **Riparian Vegetation:** The applicant shall consult (via email, letter, or phone call) with the Program Manager, 401 Water Quality Certification Program, of the Regional Boards at least 30 days prior to carrying out any unavoidable removal of riparian vegetation.

9. **Work Within Rhodia Peyton Slough Remediation Project Area:** At least 14 days prior to proposed work within the Rhodia Peyton Slough Remediation Project Area (Area), the applicant shall submit a work plan (two copies) detailing all construction-related activities within the Area. The work plan shall include: (1) timing (start and end dates) of construction activities; (2) construction methods; (3) location and depth of excavation; and (4) soil handling procedures. The applicant must obtain approval of the work plan from San Francisco Bay Regional Board staff (Groundwater Protection Division) prior to commencing work within the Area to avoid conflicts with the goals of the remediation project.
10. **Notice of Project Completion:** The project applicant shall provide the 401 Program Managers of Regional Boards a "Notice of Project Completion" immediately after project completion and before starting the operation of the newly constructed pipeline system. The notice shall document that the project was constructed in compliance with the applicant's project description and the enclosed Project Information Sheet. The notice shall be forwarded to the "Program Manager, 401 Water Quality Certification Program" of the Regional Boards, addressed as:

*Program Manager
401 Water Quality Certification Program*

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 400
Oakland, CA 94612

11. **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, process, 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 State Board 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 State Board 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 State Board 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 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 CWA, and with other applicable requirements of State law. This discharge is also regulated under State Board 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 water quality certification. This GWDR 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 and except insofar as may be modified by any preceding conditions, (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), and (c) compliance with all requirements of the Regional Water Quality Control Board's Water Quality Control Plan (Basin Plan).

If you have any questions, please direct them to the staff most knowledgeable on this issue: Ruben A. Guieb, Environmental Scientist, Water Quality Certification Unit of the State Board (916-341-5464; email: guieb@swrcb.ca.gov); Tina J. Low, Water Resource Control Engineer of the San Francisco Bay Regional Board (510-622-5682; email: tjl@rb2.swrcb.ca.gov), and George Day, Senior Water Resource Control Engineer of the Central Valley Regional Board, Sacramento Office (916-464-4606; email: DayG@rb5swrcb.ca.gov). You may also call Oscar Balaguer, Chief of the State Board Water Quality Certification Unit, at (916) 341-5485 or email: balao@swrcb.ca.gov.

Sincerely,



Celeste Cantu
Executive Director

Enclosures

cc: (See next page)

Mr. David Cornman

- 7 -

APR 28 2004

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

Ms. Molly Martindale
Regulatory Branch
San Francisco District
U.S. Army Corps of Engineers
333 Market Street
San Francisco, CA 94105

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

Mr. Stephen L. Jenkins
Division of Environmental Planning & Management
California State Lands Commission
100 Howe Ave, Suite 100-South
Sacramento, CA 95825-8202

Mr. Rodney R. McInnis
NOAA National Marine Fisheries Service, Southwest Region
501 West Ocean Boulevard, Suite 4200
Long Beach, CA 90802-4213

Mr. Jeffrey S. Stuart
National Marine Fisheries Service
National Oceanic and Atmospheric Administration
Capitol Mall, Suite 8-300
Sacramento, CA 95814-4706

cc: (Continued next page)

Mr. David Cornman

- 8 -

APR 28 2004

cc: (Continuation page)

Ms. Cay C. Goude
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
CN7500
Cranbury, NJ 08512

Mr. Steve Leach
URS Corporation
1333 Broadway, Suite 800
Oakland, CA 94612

ENCLOSURE

TECHNICALLY CONDITIONED WATER QUALITY CERTIFICATION:
 CONCORD TO SACRAMENTO PIPELINE PROJECT
 (CORPS SACRAMENTO DISTRICT FILE # 200100556 AND
 CORPS SAN FRANCISCO DISTRICT FILE # 264495)

PROJECT INFORMATION SHEET

1.	Applicant & Agent	<p>Mr. David Cornman SFPP, L. P. Operating Partnership to Kinder Morgan Energy Partners, L. P. (SFPP) 1100 Town and Country Road Orange, CA 92868</p> <p>Applicant's Agent: Mr. Steve Leach URS Corporation 1333 Broadway, Suite 800 Oakland, CA 94612</p>
2.	Project Purpose and Description	<p>Purpose: SFPP will construct a new 70 mile long, 20-inch pipeline to carry petroleum products from the SFPP, L. P. Concord Station in Contra Costa County to the Sacramento Station in the City of West Sacramento, California (<i>Figure 1</i>). The current capacity of the 14-inch pipeline system, which is 36-years old, is 152,000 barrels per day (bpd). Current peak demand is 137,000 bpd. With an annual forecast increase in demand of 2.5 percent, the maximum capacity of the system will be reached in 2006. The proposed 20-inch pipeline, with a capacity of 200,000 bpd, should meet the projected demand for petroleum products of the Contra Costa to Sacramento pipeline system, including the fuel demand for military installations in Sacramento, Roseville, Chico, and Reno.</p> <p>Description: The 70 mile, 20-inch pipeline construction project will begin at the SFPP Concord Station, north of the city of Concord in Contra Costa County and travel northwest adjacent to an existing 12-inch SFPP pipeline to Waterbird Way. The new pipeline will parallel Waterbird Way northwest to Waterfront Road where it turns west and follows the north side of the Union Pacific Railroad embankment across Peyton Slough to Mococo Road in the City of Martinez (<i>Figure 2</i>). At Mococo Road, the new pipeline will turn north along the west side of Interstate 680, cross back to the west side of Interstate 680 and connect to an existing 14-inch pipeline to cross the Carquinez Strait. In the city of Benicia the pipeline will travel northeasterly through areas that are primarily industrial, largely following road Right of Ways (ROWs). The pipeline will leave the city of Benicia between Mile Posts (MPs) 8 and 9 to travel through primarily agricultural areas in Solano County. At about MP 19, the pipeline will pass through a marsh and the Cordelia Slough, entering the City of Fairfield in an unincorporated industrial and agricultural area before entering Suisun City. In Suisun City, the pipeline route will pass through a 1-mile residential area, then through an industrial area in Fairfield near MPs 28 and 29. From MPs 30 to 50 the pipeline route will travel through mostly agricultural lands in Solano County. Approximately 0.7 miles later, the pipeline will enter an unincorporated area of Yolo County and travel through an agricultural area. Near MP 65, the pipeline will enter the City of West Sacramento and travel largely in road ROWs through industrial areas until ending at the existing SFPP Sacramento Station at MP 70.</p> <p>Upon completion of the proposed project, most of the existing pipeline will be decommissioned from further use in petroleum product service. However, approximately 6,000 feet of the existing 14-inch line will continue to be used for the crossing of the Carquinez Strait until such time that 20-inch pipe can be installed using a single Horizontal Directional Drill. The project also includes the construction of 0.8 miles of a new 12-inch pipeline to connect with a proposed Wickland jet fuel pipeline serving the Sacramento International Airport.</p>

3.	Receiving Water(s) Name	The project will cross numerous ephemeral, intermittent and active flowing streams, constructed roadside ditches, wetlands, and riparian habitats. Table 2-2 (Waters of the US in Project Area Summarized by Featured ID and Feature Type) of the URS' January 26, 2004 <i>Wetland Mitigation and Monitoring Plan: Concord to Sacramento Pipeline Project</i> provides an extensive list of water body names and types impacted by the project.
4.	Water Body Types/ Area of Filled/Excavated (Acres)	
5.	Federal Permit(s)	<p>Individual Permit (File #264495): To be issued by the U.S. Army Corps of Engineers, San Francisco District.</p> <p>Biological Opinions Issued by: <i>NOAA</i>: Permit File # SWR-02-SA-6176:JSS issued on October 7, 2003 by NOAA, NMFS Southwest Region</p> <p><i>USFWS</i>: Permit File # 1-1-03-F-0306 issued on February 10, 2004 by US Fish and Wildlife Service, Sacramento Office.</p>
6.	Non-Compensatory Mitigation	<p>On February 17, 2004, URS provided the State Board a <i>Summary of Comprehensive Mitigation Measures Related to Section 401 Water Quality Certification Concord to Sacramento Pipeline Project</i>. The information provided in that document was taken from the following documents:</p> <ol style="list-style-type: none"> (1) California State Lands Commission. 2003. <i>Final Environmental Impact Statement for the Concord to Sacramento Petroleum Products Pipeline Project</i>. SCH# 2002022010. Sacramento, CA. (2) URS Corporation. 2004. <i>Storm Water Pollution Prevention Plan/Erosion and Sediment Control Plan</i>. Project 27652044. (3) URS Corporation. January 26, 2004. <i>Wetland Mitigation and Monitoring Plan for the Concord to Sacramento Pipeline</i>. Project 27652022 Submitted to the State and Regional Boards on January 26, 2004. (4) URS Corporation. February 24, 2004. <i>Dewatering and Hydrostatic Test Water Discharge Plan for the Concord to Sacramento Pipeline</i>. Project 27652047. In addition to the mitigation measures described in this plan, the applicant shall include and comply with condition numbers 6 to 9 of this certification order. (5) URS Corporation. 2004. <i>Vegetation Management Plan for the Concord to Sacramento Pipeline</i>. Project 27652045. <p>Temporary impacts will be minimized by restoring 62.35 acres of disturbed areas to pre-project conditions.</p>
7.	Compensatory Mitigation	<p>URS' January 26, 2004 <i>Wetland Mitigation and Monitoring Plan: Concord to Sacramento Pipeline</i> provides a detailed description of the project's compensatory mitigation for wetland impacts. Table 3-1 of the plan provides a summary of project's proposed compensatory mitigation for temporal impacts to wetlands.</p> <p>Off-site compensatory mitigation Preservation: 1.10 acres Enhancement: 20.15 acres Creation: 0.55 areas</p>
8.	Optional Additional Information	<p>California Environmental Quality Act (CEQA) Compliance: File Number 25815, PRC 5439.1, SCH No. 2002022010, Date Filed: 11/13/2003 Filed by: California State Lands Commission 100 Howe Avenue Suite, 100-South Sacramento, CA 95825-8202 State Lands Commission: Master Lease No. PRC 5439.1</p>

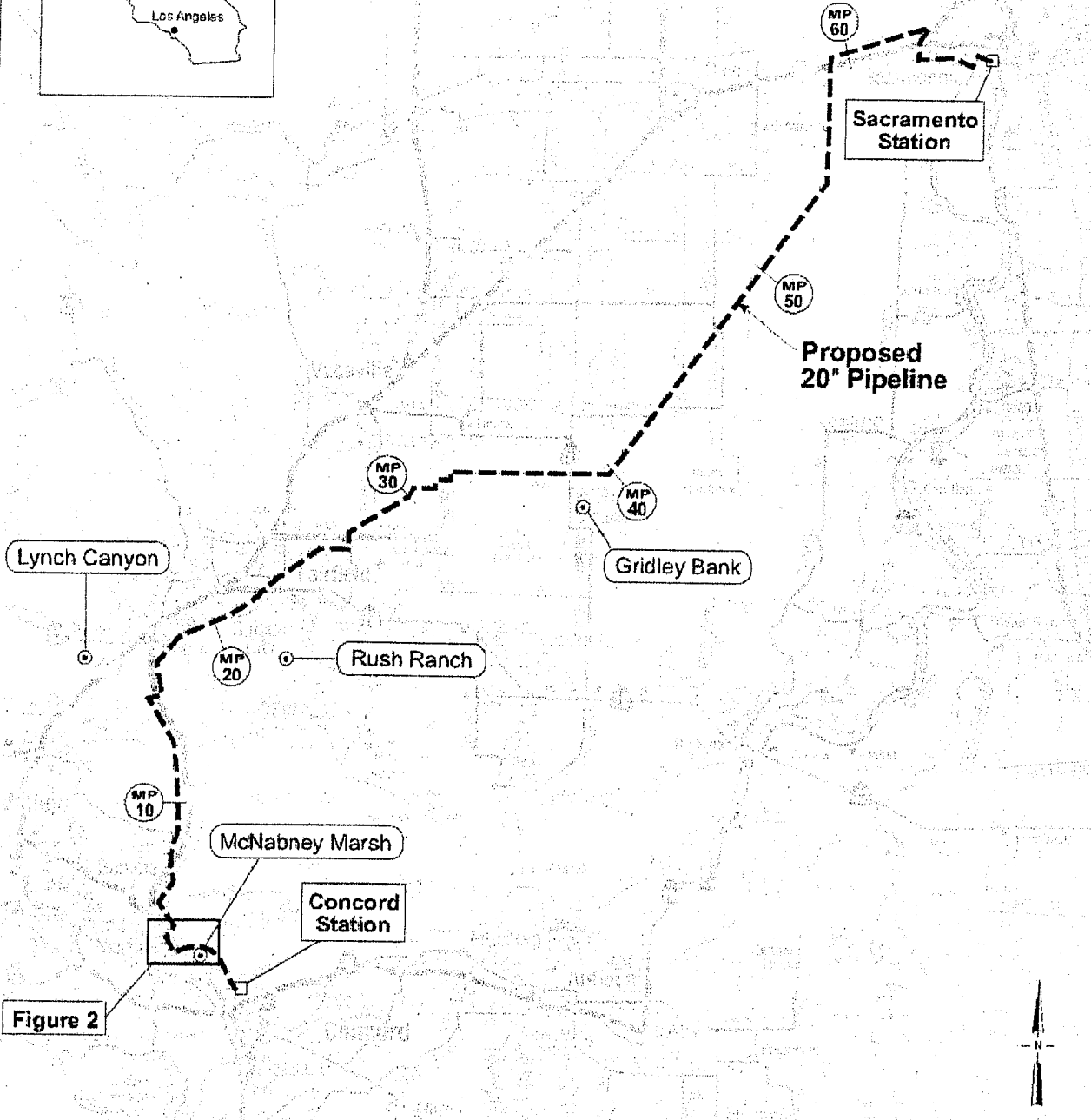


Figure 2

Notes:

- McNabney Marsh - Seasonal Alkali Marsh and Salt Marsh Harvest Mouse Habitat
- Rush Ranch - Seasonal Alkali Marsh and Salt Marsh Harvest Mouse Habitat
- Lynch Canyon - Seasonal and Perennial Seeps and Upland Woodlands
- Gridley Bank - Vernal Pool Habitat and Listed Vernal Pool Branchiopod Habitat



Source: AAA, Central California Bay Area to Lake Tahoe, 2001



Project No. 27652022

Concord to Sacramento Pipeline
SFPP, L.P.

PROJECT LOCATION AND MITIGATION SITES

Figure 1

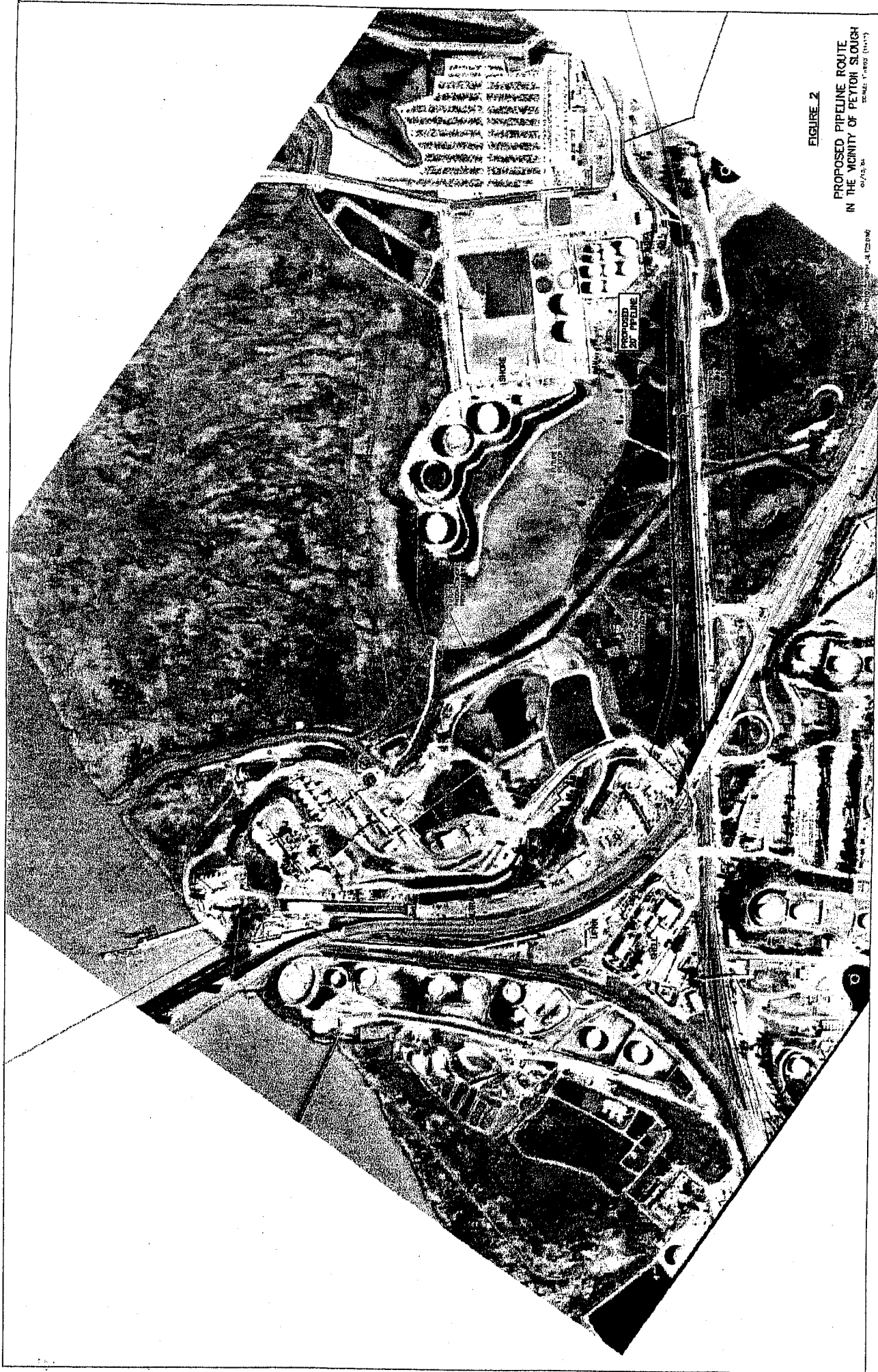


FIGURE 2

PROPOSED PIPELINE ROUTE
IN THE VICINITY OF PETTIGR SLOUGH

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