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MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Santa Ana Regional Water Quality Control Board

November 2, 2015

Ms. Cheryl Roberts
Permitting Specialist
Kinder Morgan Energy Partners L.P.
1100 Town and Country Road
Orange, CA 92868

Cheryl_Roberts @kindermorgan.com

**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS
CERTIFICATION FOR SWARTHOUT CANYON PIPELINE LONG-TERM EXPOSURE
PREVENTION PROJECT, SAN BERNARDINO NATIONAL FOREST, SAN
BERNARDINO COUNTY (USACE FILE NO. NOT AVAILABLE) (SARWQCB
PROJECT NO. 362015-11)**

Dear Ms. Roberts,

On July 6, 2015, we received from Kinder Morgan Energy Partners, L.P. (Kinder Morgan) (Applicant) an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") for a project (Project) located in Swarthout Canyon to install concrete revetment mats on top of an eight (8) inch petroleum pipeline to prevent erosion, to recontour the stream banks to widen the channel, and to install energy dissipaters. The Applicant submitted a filing fee of \$1,950.00 with the Certification application materials, which satisfies the Project fee requirement for consideration of a 401 Certification. This fee amount was determined using the Dredge and Fill Fee Calculator on the State Water Resources Control Board (SWRCB) web site, which is based on the most current iteration of California Code of Regulations, Division 3, Chapter 9, Article 1, section 2200 (a) (3).

This letter responds to your request for Certification that the proposed Project, described in your application and summarized below, will comply with State water quality standards outlined in the Water Quality Control Plan for the Santa Ana River Basin (1995) (Basin Plan) and subsequent Basin Plan amendments:

Project Description: Kinder Morgan proposes to place one or more 100-foot by 60-foot Submar revetment mats above an exposed 8" petroleum pipeline in Swarthout Canyon. Fill removed to install the revetment mats will be replaced and then surface contoured. In addition, the stream banks at the exposure site will be widened to prevent constriction scouring at the

WILLIAM RUH, CHAIR | KURT V. BERCHTOLD, EXECUTIVE OFFICER

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pipeline location. Energy dissipators in the form of sandbags and straw bales will be placed at the downstream end of the revetment mats to enhance channel roughness and encourage sediment to accumulate on top of the revetment matting.

The work will take place within Section 33 of Township 3 South, Range 6 West in the San Bernardino National Forest, located on of the U.S. Geological Survey *Telegraph Peak* 7.5 minute topographic quadrangle map (34° 17' 57.86" N/ - 117° 30' 30.33" W).

Receiving water: Lone Pine Creek, a tributary of Cajon Creek. Cajon Creek has beneficial uses (existing or potential) that include: Municipal and Domestic Supply (MUN), groundwater recharge (GWR), contact recreation (REC1), non-contact recreation (REC2), cold freshwater habitat (COLD), wildlife habitat (WILD), and Rare, Threatened or Endangered Species (RARE).

Fill area:

Permanent Impact to Waters of the U.S.	0.019 acres	82 linear feet
Temporary Impact to Waters of the U.S.	0.010 acres	18 linear feet

Dredge/Fill volume: Not Applicable

Federal permit: U.S. Army Corps of Engineers Nationwide Permit No. 12, Utility Line Activities

You have proposed to mitigate water quality impacts as described in your Certification application. The proposed mitigation is summarized below:

Onsite Water Quality Standards Mitigation Proposed:

- Standard water quality related best management practices (BMPs) will be employed during construction activities.
- Upon completion of the Project, Kinder Morgan will mechanically de-compact the access road used for construction access. After de-compaction, the area will be hand seeded with species native to the elevation of Cajon Pass in vicinity of the Project. Large boulders will be placed along the east shoulder of Swarthout Canyon Road to restrict vehicular access to the Project area.

Offsite Water Quality Standards Mitigation Proposed:

- None

Should the proposed Project have the potential to impact State- or federally-listed endangered species or their habitat, implementation of measures identified in consultation with U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife will ensure those impacts are mitigated to an acceptable level.

Appropriate BMPs will be implemented to reduce construction-related impacts to waters of the State in compliance with the requirements of Order No. 2012-0006-DWQ, the State Water Resources Control Board General NPDES Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order Number 2012-0006-DWQ.

Regional Board staff has determined that the proposed Project meets the criteria for categorical exemptions pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15300.2, and qualifies for a "Class 1" exemption pursuant to CEQA Guidelines Section 15301 (Existing Facilities). "Class 1" consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. As such, the Santa Ana Regional Water Quality Control Board will file a Notice of Exemption for the Project with the State of California Office of Planning and Research State Clearinghouse.

This 401 Certification is contingent upon the execution of the following conditions:

- 1) This Order for Water Quality Certification will remain valid until the U.S. Army Corps of Engineers (USACE) 2012 Nationwide permits expire on March 18, 2017, or through an extended period beyond the expiration date that is authorized in writing by the USACE.
- 2) The Applicant must comply with the requirements of the applicable Clean Water Act Section 404 permit.
- 3) The Applicant shall ensure that all fees associated with this Project shall be paid to each respective agency prior to conducting any on-site construction activities.
- 4) Prior to the discharge of fill to, or the dredging or excavation of material from, waters of the State, the Applicant shall submit for the Project area a Stream Geomorphology Monitoring Plan (monitoring plan) for approval by the Santa Ana Regional Board. At a minimum, the monitoring plan should establish permanent photopoints; installation of a stream gauge; and a narrative

description of Lone Pine Creek geomorphology above, below and within the Project construction area. Yearly monitoring reports will include yearly photopoint photographs, analysis of stream flows, and narrative descriptions of stream channel conditions above, within and below the project area. Reports discussing the monitoring plan results will be submitted to the Santa Ana Regional Board for 10 years post-construction by May 1 of each year. The Project cannot proceed until Regional Board staff approves the Stream Geomorphology Monitoring Plan.

- 5) The decompacted access road shall be monitored for five years for the presence of non-native plant species. Non-native species shall be removed from the restoration area for the five year monitoring period.
- 6) Prior to construction activities, the Project proponent shall delineate the work area with brightly colored fencing or other methods to ensure both temporary and permanent impacts to waters of the United States and waters of the State of California do not exceed the limits authorized in this Certification.
- 7) A copy of this Certification and any subsequent amendments must be maintained on-site for the duration of work as a denoted element of any Project Storm Water Pollution Prevention Plan (SWPPP) or Water Pollution Control Program (WPCP).
- 8) All materials generated from construction activities associated with this Project shall be managed appropriately. This shall include identifying all potential pollution sources within the scope of work of this Project, and incorporating all necessary pollution prevention BMPs as they relate to each potential pollution source identified. Additionally, no materials may be stored within waters of the United States or waters of the State of California.
- 9) The Project proponent shall utilize BMPs during Project construction to minimize the controllable discharges of sediment and other wastes to drainage systems or other waters of the State and of the United States.
- 10) Substances resulting from Project-related activities that could be harmful to aquatic life, including, but not limited to, petroleum lubricants and fuels, cured and uncured cements, epoxies, paints and other protective coating materials, portland cement concrete or asphalt concrete, and washings and cuttings thereof, shall not be discharged to soils or waters of the State. All waste concrete shall be removed from the Project site.
- 11) Motorized equipment shall not be maintained or parked within or near any stream crossing, channel or lake margin in such a manner that petroleum products or other pollutants from the equipment may enter these areas under any flow conditions. Vehicles shall not be driven or equipment operated in

waters of the State on-site, except as necessary to complete the proposed Project. No equipment shall be operated in areas of flowing water.

- 12) This Water Quality Certification is subject to the acquisition of all local, regional, State, and federal permits and approvals as required by law. Failure to meet any conditions contained herein, or any the conditions contained in any other permit or approval for this Project issued by the State of California, or any subdivision thereof, may result in appropriate enforcement action, including revocation of this Certification and imposition of administrative civil or criminal liability.
- 13) Construction de-watering discharges, including temporary stream diversions necessary to carry out the Project, are subject to regulation by Regional Board Order No. R8-2015-0004, General Waste Discharge Requirements for Discharges to Surface Waters that Pose an Insignificant (De Minimus) Threat to Water Quality. For more information, please review Order No. R8-2015-0004 at www.waterboards.ca.gov/santaana/

Under California Water Code, Section 1058, and Pursuant to 23 CCR §3860, the following shall be included as conditions of all water quality certification actions:

- (a) Every certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section §13330 of the Water Code and Article 6 (commencing with Section 3867) of this Chapter.
- (b) Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a FERC license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to Subsection §3855(b) of this Chapter and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- (c) Certification is conditioned upon total payment of any fee required under this Chapter and owed by the applicant.

If the above-stated conditions are changed, any of the criteria or conditions as previously described are not met, or new information becomes available that indicates a water quality problem, the Regional Board may require that the Applicant submit a Report of Waste Discharge and obtain Waste Discharge Requirements.

In the event of any violation or threatened violation of the conditions of this Certification, the holder of any permit or license subject to this Certification shall be subject to any remedies, penalties, process or sanctions as provided for under State law. For purposes of Section 401(d) of the Clean Water Act, the applicability of any State law authorizing remedies, penalties, process or sanctions for the violation or threatened

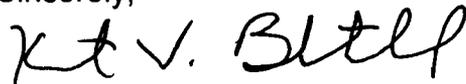
violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Certification. Violations of the conditions of this Certification may subject the Applicant to civil liability pursuant to Water Code Section 13350 and/or 13385.

This letter constitutes a Water Quality Standards Certification issued pursuant to Clean Water Act Section 401. I hereby certify 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 Clean Water Act, and with other applicable requirements of State law.

This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ (Order No. 2003-0017-DWQ), "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received Water Quality Certification" which requires compliance with all conditions of this Water Quality Standards Certification. Order No. 2003-0017-DWQ is available at: www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo_2003-0017.pdf

Should there be any questions, please contact Jason Bill at (951) 782-3295 or Jason.Bill@waterboards.ca.gov, or Wanda Cross at (951) 782-4468 or wanda.cross@waterboards.ca.gov.

Sincerely,



Kurt V. Berchtold
Executive Officer

cc (via electronic mail):

Power Engineers, Inc. – Court Morgan – court.morgan@powereng.com
United States Forest Service - Aaron Gagnon - agagnon@fs.fed.us
U. S. Army Corps of Engineers, Los Angeles Office - Pam Kostka
CA Department of Fish and Wildlife – Kim Freeburn-Marquez
State Water Resources Control Board, Office of Chief Counsel - David Rice
State Water Resources Control Board DWQ - Water Quality Certification Unit
U.S. EPA -Supervisor of the Wetlands Section – Jason A. Brush