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SECRETARY FOR
ENVIRONMENTAL PROTECTION

Santa Ana Regional Water Quality Control Board

September 28, 2012

Heidi Sickler
Manager of Project Permitting
Kinder Morgan Energy Partners/Calnev
1100 Town and Country Road
Orange, CA 92868

CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR THE CALNEV 14-INCH PIPELINE ANOMALY INSPECTION AT JOINT NUMBER 15930 PROJECT, CAJON PASS, COUNTY OF SAN BERNARDINO, CALIFORNIA (SARWQCB PROJECT NO. 362012-11)

Dear Ms. Sickler:

On May 2, 2012, we received an application for Clean Water Act Section 401 Water Quality Standards Certification (401 Certification) from AMEC Environment & Infrastructure on behalf of Kinder Morgan Energy Partners/Calnev for a project to inspect an anomaly detected in the Calnev 14-inch diameter petroleum product pipeline in the Cajon Canyon area of San Bernardino County. Included with the application were the following:

- A copy of the application for the United States Army Corps of Engineers (USACE) Clean Water Act Section 404 Nationwide Permit for the project;
- A copy of the application for a California Department of Fish and Game (CDFG) Streambed Alteration Agreement;
- \$668 as the fee intended to complete the process to issue a 401 Certification for this project, as specified by the California Code of Regulations (CCR), Division 3, Chapter 9, Article 1, Section 2200 (a) (3).

On September 27, 2012, we received copies of the certified California Environmental Quality Act (CEQA) Notice of Exemption for the project and a notice from CDFG that a 1602 Streambed Alteration Agreement was not required for this project.

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:

The proposed project entails the excavation of a specific section of the Calnev 14-inch petroleum pipeline to assess, validate and remediate an anomaly identified during an internal inspection, and to verify the integrity of the pipeline. The Calnev pipeline transports

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petroleum products from Colton, California to the Las Vegas, Nevada area. The area of the pipeline inspection is in the Blue Cut area of Cajon Pass in San Bernardino County, adjacent to Cajon Canyon Creek and Interstate Highway 15. The pipeline will be exposed, inspected, and repaired if necessary per regulatory requirements. An excavation 10 feet by 15 feet by 15 feet deep will be opened to expose the pipeline. Approximately 83 cubic yards of sand and gravel is proposed to be excavated, temporarily stockpiled, and replaced within the active floodplain of Cajon Canyon Creek. Work is not proposed in flowing portions of the stream. It is proposed that the project site will be restored to its pre-construction condition except for some damage to a limited amount of native vegetation. The project will temporarily impact 60 linear feet, covering 0.031 acre, of jurisdictional waters of the United States.

Location: The work will take place within Section 13 of Township 4 South, Range 6 West, of the U.S. Geological Survey *Cajon* quadrangle map (Latitude 34.26282° N/ -Longitude 117.46819° W).

Receiving water: Cajon Canyon Creek

Fill area: 0.012 acre (consisting of 30 linear feet) of temporary impacts

Area of Jurisdictional Impact: 0.031 acre of temporary impact to streambed

Federal permit: U.S. Army Corps of Engineers Nationwide Permit No. 3 or 12

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:

- Construction debris will be removed, and the disturbed area will be restored to preconstruction contours.
- Riparian vegetation will be mostly avoided.
- Disturbed areas will be reseeded, at the direction of CDFG.
- Standard construction Best Management Practices (BMPs) as listed in the application will be employed to reduce impacts to water quality and beneficial uses.

Offsite Water Quality Standards Mitigation Proposed:

- None.

Should the proposed project 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 Game will ensure those impacts are mitigated to an acceptable level.

This project does not require discretionary action by any state or local agency other than the Regional Board. Pursuant to the California Environmental Quality Act ("CEQA"), Regional Board staff have determined that the proposed project is categorically exempt from provisions of CEQA according to CEQA Guidelines Section 15301 (c) which applies to 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. The proposed project deals with the repair of an existing private structure which fall under Section 15301 (c) exemptions. The Regional Board has filed a Notice of Exemption for this project.

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

- 1) The applicant must comply with the requirements of the applicable Clean Water Act section 404 permit.
- 2) 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.
- 3) 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.
- 4) All proposed mitigation measures shall be timely implemented.
- 5) 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 adhesives or protective coating materials, portland cement concrete or asphalt concrete, and washings and cuttings thereof, and wastes from metal repair or fabrication including metal filings, grindings, dusts and slag, shall not be discharged to soils or waters of the state. All waste concrete shall be removed.
- 6) 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.
- 7) 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 issued by the State of California or any subdivision thereof may result in the revocation of this Certification and civil or criminal liability.

- 8) Construction de-watering discharges, including temporary stream diversions necessary for project construction may be regulated under Regional Board Order No. R8-2009-0003, 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. R8-2009-0003 at www.waterboards.ca.gov/santaana/
- 9) The applicant shall ensure that required fees associated with the processing of the 401 Certification for this project shall be paid to the State Water Resources Control Board before project initiation.

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 the applicant to submit a report of waste discharge and obtain Waste Discharge Requirements.

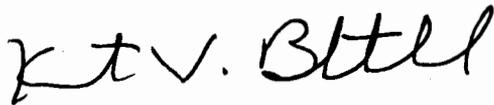
In the event of any violation or threatened violation of the conditions of this certification, the holder of any permit or license subject to this certification shall be subject to any remedies, penalties, process or sanctions as provided for under state law.

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 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 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/wqo2003-0017.pdf

Should there be any questions, please contact Dave Woelfel at (951) 782-7960, or Mark Adelson at (951) 782-3234.

Sincerely,



Kurt V. Berchtold
Executive Officer
Santa Ana Regional Water Quality Control Board

cc (via electronic mail):

AMEC Environmental – Nick Ricono
U. S. Army Corps of Engineers, Los Angeles Office – Gerry Salas
Department of Fish and Game – Kim Freeburn
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 Regulatory Office WTR