

**Regional Water Quality Control Board
Central Valley Region
Board Meeting – 24/25 January 2008**

**Response to Written Comments for
Kinder Morgan Energy Partners, L.P.
Fox Road Petroleum Release Site, Groundwater Remediation System
Tentative Waste Discharge Requirements**

At a public hearing scheduled for 24/25 January 2008, the Regional Water Quality Control Board, Central Valley Region (Regional Water Board) will consider adoption of a renewed National Pollutant Discharge Elimination System (NPDES) permit and Time Schedule Order for the Kinder Morgan Energy Partners, L.P. Fox Road Petroleum Release Site, Groundwater Remediation System. The tentative orders were issued on 13 November 2007. This document contains responses to written comments received from the Kinder Morgan Energy Partners, L.P. (hereinafter Discharger) in response to the proposed Orders. Written comments from interested persons were required to be received by the Regional Water Board by 14 December 2007 in order to be included in the record. Comments were received by the deadline from only the Discharger.

Written comments from the Discharger are summarized below, followed by Regional Water Board staff responses.

DISCHARGER'S COMMENTS

COMMENT #1: General Comments: In several locations within the Tentative permit there are some inaccuracies regarding the operation of the petroleum pipeline. The proposed permit should be corrected to indicate that the petroleum pipeline is no longer in service

RESPONSE: Staff concurs. The proposed Order has been updated accordingly.

COMMENT #2: Total Petroleum Hydrocarbons. The tentative permit includes a limit of 50 ug/L for Total Petroleum Hydrocarbons (gasoline and diesel). The Discharger comments that the effluent limitation should actually be two separate effluent limitations, one for gasoline and one for diesel (i.e. TPH-G and TPH-D).

RESPONSE: Staff concurs. The proposed Order has been updated accordingly.

COMMENT #3: Pesticides Section V.A.8. describes receiving water limitations for pesticides. The Discharger emphasized that it does not use pesticides at the site. Furthermore, the receiving water runs through agricultural areas where pesticides may be used that could impact the receiving water. The Discharger expressed concerns

about possible violations of the receiving water limitations that are not a result of its discharge.

RESPONSE: The receiving water limitations implement the Basin Plan water quality objectives for pesticides. The proposed permit at Section V.A. states the following, “*Receiving water limitations are based on water quality objectives contained in the Basin Plan and are a required part of this Order. The discharge shall not cause the following in Gibson Canyon Creek Flood Control Channel.*” (emphasis added) For there to be a violation of a receiving water limitation, the Regional Water Board would have to prove that the discharge caused the violation. In the case of pesticides, the effluent discharge would have to contain pesticides such that it could be shown to have caused the receiving water to exceed the receiving water limitation.

COMMENT #4: Salinity. The tentative permit requires the Discharger to prepare and implement a Salinity Evaluation and Minimization Plan to address sources of salinity. The Discharger wishes to clarify that the requirement to develop and implement the Salinity Evaluation and Minimization Plan creates no obligation to provide treatment for salinity that may be present in the extracted groundwater.

RESPONSE: The purpose of the Salinity Evaluation and Minimization Plan is ensure the Discharger is using best management practices in the operation of the Facility in order to minimize the salinity of the discharge (e.g. minimize use of additives that can increase salinity). The Salinity Evaluation and Minimization Plan will not necessarily result in the requirement to treat the extracted groundwater to remove salinity.

COMMENT #5: Technology-Based Effluent Limitations. The tentative permit contains a number of technology-based effluent limits (TBELs), including a maximum daily effluent limitation for t-Butyl Alcohol of 20 ug/L. This represents a significant decrease from the t-Butyl Alcohol limit of 200 ug/L from the previous NPDES permit, which was based on allowable dilution credits. Based on a discussion with Regional Water Board staff, the Discharger understands that the Regional Water Board would consider issuing water quality-based effluent limitations (WQBELs) for t-Butyl Alcohol and other constituents based on reestablishing dilution credits if a mixing zone study is completed and demonstrates such actions are sufficiently protective of the receiving water.

RESPONSE: Dilution credits may only be allowed for the development of WQBELs. Therefore, dilution credits could not be used to modify the TBELs for t-Butyl Alcohol. When developing effluent limitations, federal regulations require that NPDES permits include applicable TBELs, and any more stringent effluent limitations necessary to meet applicable water quality standards (e.g. WQBELs).

If there are applicable TBELs and WQBELs for a particular constituent, the permit must include the more stringent of the limitations. For t-Butyl Alcohol, the TBELs are more stringent than WQBELs calculated without dilution credits. Therefore, performing a dilution/mixing zone study would not change the effluent limits for t-Butyl Alcohol. However, the proposed permit includes WQBELs for nitrate and manganese, with which the Discharger is unable to comply. If the Discharger performs a dilution/mixing zone study, it is possible that dilution credits could be provided to modify the WQBELs for nitrate and manganese.

For t-Butyl Alcohol, the TBELs were developed based on best professional judgment, in accordance with 40 CFR 125.3. If the Discharger disagrees with the proposed effluent limitation it could develop a study to evaluate the best available technology economically achievable (BAT) to treat t-Butyl Alcohol. A reopener provision has been added to the proposed permit to allow the permit to be reopened should the Discharger develop an acceptable BAT evaluation study that demonstrates that alternative effluent limitations for t-Butyl Alcohol are appropriate.

COMMENT #6: Other Reports and Monitoring. Language in Attachment E, item X.D.2. requires the Discharger to prepare a report outlining minimum levels, method detection limits, and analytical methods for approval by the Regional Water Board. The Discharger requests that last sentence in this section be deleted. The sentence states, “*All peaks identified by analytical methods shall be reported.*” The Discharger also requests that the Monitoring and Reporting Program (Attachment E) be modified to clarify that Self Monitoring Reports may be submitted quarterly, as is currently allowed.

RESPONSE: Staff concurs. The proposed Order has been modified accordingly.