

**Lahontan Regional Water Quality Control Board**

March 17, 2015

WDID No. 6B361501002  
401 WQC

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**BOARD ORDER NO. R6V-2015-0011, FOR CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION, KERN RIVER GAS DEPTH OF COVER MAINTENANCE PROJECT, SAN BERNARDINO COUNTY, WDID NO. 6B361501002**

The California Regional Water Quality Control Board, Lahontan Region (Water Board) has received project information from the Kern River Gas Transmission Company (Applicant) and an application filing fee to complete an application for Clean Water Act (CWA) Section 401 Water Quality Certification (WQC) for the Depth to Cover Maintenance Project (Project). This Order for WQC is based upon the information provided in the application and subsequent correspondence received in support of the application.

Any person aggrieved by this action of the Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with California Water Code (CWC), section 13320, and California Code of Regulations (CCR), title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the internet at [http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality](http://www.waterboards.ca.gov/public_notices/petitions/water_quality), or will be provided upon request.

**PROJECT DESCRIPTION**

This WQC is based upon the information provided by the Applicant. Project details are summarized in the following table.

**Table of Project Information:**

WDID Number	6B361501002
Applicant	Kern River Gas Transmission Company 2755 E. Cottonwood Parkway, Suite 300 Salt Lake City, Utah 84121
Agent	Callee Butcher

**Table of Project Information:**

Project Name	Depth of Cover Maintenance Project						
Project Purpose and Description	<p>The Project is to inspect the pipeline right-of-way and to maintain a minimum 3-foot depth of cover over buried sections of the pipe. Depending on the results of the inspection, cover materials will be placed as needed and where needed so as to maintain a minimum 3-foot depth of cover over buried sections of the pipe. Authorized cover materials include soil and ungrouted rock rip-rap (both clean and free of deleterious materials) and pre-cast articulated concrete-block. Where the Mainline pipeline crosses the Mojave River (between Milepost 675 and Milepost 680), soil and ungrouted rock rip-rap are the only pre-authorized cover materials. In no instance will cover material be placed above the natural grade of the channel so as to cause a condition of impoundment or change in the natural flow path of the waterway.</p> <p>Portions of the pipeline cross between watersheds containing waters of the US (WOUS) and watersheds containing waters of the State only. This 401 WQC Order applies only to those portions of the Project that occur within WOUS ("Federal Jurisdictional Watershed," Enclosure 1).</p>						
Project Type	Utilities, Underground						
Project Address or other Locating Information	The pipeline right-of-way roughly parallels Interstate 15 from the California/Nevada state line to Daggett, and includes two delivery laterals (Mountain Pass Lateral and High Desert Lateral), San Bernardino County (Enclosure 1).						
Latitude/Longitude	35.6221/-115.4098, Mainline Pipeline (east endpoint) 34.8511/-116.8496, Mainline Pipeline (west endpoint) 35.5925/-115.5072, Mountain Pass Lateral (north endpoint) 34.5958/-117.3628, High Desert Lateral (south endpoint)						
Hydrologic Unit(s)	Mojave Hydrologic Unit 628.00, Lower Mojave Hydrologic Area 628.50, Afton Hydrologic Area 628.70, Baker Hydrologic Area 628.80; Ivanpah Hydrologic Unit 612.00						
Project Area	655 acres						
Receiving Water(s) Name	Mojave River and unnamed ephemeral streams						
Water Body Type(s)	Intermittent (Mojave River) and minor surface waters						
Designated Beneficial Uses	Mojave Hydrologic Unit 628.00 (including sub-areas) and Ivanpah Hydrologic Unit 612.00: MUN, AGR, GWR, REC-1, REC-2, COMM, WARM, COLD, WILD						
Potential Water Quality Impacts to WOUS	Hydrogeomorphic changes in the flow regime on the Project site may result in downstream erosion, sedimentation, and/or siltation.						
Project Impacts (Fill) to WOUS	<b>Waterbody Type</b>	<b>Permanent</b>			<b>Temporary</b>		
		Acres	Linear Feet	Cubic Yards	Acres	Linear Feet	Cubic Yards
	<i>Streambed</i>	0	0	0	1.27	2,775	1,290
Federal Permit(s)	The U.S. Army Corps of Engineers (USACE) will regulate the Project under Nationwide Permit 3, Maintenance, and/or Nationwide Permit 12, Utility Line Activities, pursuant to section 404 of the						

**Table of Project Information:**

	CWA. Some of the repairs at individual depth of cover maintenance sites qualify as non-notifying projects, while others may require a pre-construction notification to USACE.
Non-Compensatory Mitigation	During construction, the Applicant will follow Best Management Practices (BMPs) including construction storm water controls designed to minimize the short-term degradation of water quality.
Compensatory Mitigation	None
Application Fees <sup>1</sup>	\$37,463 (2,775 linear feet of discharge x \$13.50 per linear foot)
Fees Received	\$37,463
Estimated Annual Active Discharge Fee <sup>2</sup>	\$600 (an annual active discharge fee will be assessed each fiscal year or portion of a fiscal year during which discharges occur until the Water Board issues a Notice of Completion of Discharges Letter to the Applicant)

<sup>1</sup> Dredge and fill application fees shall not exceed \$90,000 for Fill and Excavation operations.

<sup>2</sup> The actual Annual Active Discharge Fee will be calculated using the fee schedule in effect at the time the annual fee is assessed per California Code of Regulations, Title 23, section 2200(a)(3).

**CEQA COMPLIANCE**

The Water Board finds that the Project is categorically exempt from the California Environmental Quality Act (CEQA), pursuant to CCR, title 14, section 15031, Existing Facilities, for the maintenance of and minor alteration to an existing facility with negligible to no expansion of use. The Water Board will file a Notice of Exemption with the State Clearinghouse concurrently with this Order.

**SECTION 401 WATER QUALITY CERTIFICATION****Authority**

CWA, section 401 (33 United State Code [USC], paragraph 1341), requires that any applicant for a CWA, section 404 permit, who plans to conduct any activity that may result in discharge of dredged or fill materials to WOUS, shall provide to the permitting agency a certification that the discharge will be in compliance with applicable water quality standards of the state in which the discharge will originate. No section 404 permit may be granted (or valid) until such certification is obtained. The Applicant submitted a complete application and the fees required for WQC under section 401 of the CWA for the Project. The USACE will regulate the Project under Nationwide Permit 3, Maintenance, and/or Nationwide Permit 12, Utility Line Activities, pursuant to section 404 of the CWA. CCR, title 23, section 3831(e) grants the Executive Officer the authority to grant or deny WQC for projects in accordance with CWA section 401. The proposed Project qualifies for such WQC.

**Standard Conditions**

Pursuant to CCR, title 23, section 3860, the following standard conditions are requirements of this certification:

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to CWC, section 13330 and CCR, title 23, section 3867.
2. This certification action is not intended and must not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license unless the pertinent certification application was filed pursuant to CCR, title 23, section 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. The validity of any non-denial certification action must be conditioned upon total payment of the full fee required under CCR, title 23, section 3833, unless otherwise stated in writing by the certifying agency.
4. Neither Project construction activities nor operation of the Project may cause a violation of the *Water Quality Control Plan for the Lahontan Region* (Basin Plan), may cause a condition or threatened condition of pollution or nuisance, or cause any other violation of the CWC.
5. The Project must be constructed and operated in accordance with the Project described in the application for WQC that was submitted to the Water Board. Deviation from the Project description constitutes a violation of the conditions upon which the certification was granted. Any significant changes to this Project that would have a significant or material effect on the findings, conclusions, or conditions of this certification, including Project operation, must be submitted to the Executive Officer for prior review and written approval.
6. This WQC 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 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 WQC and civil or criminal liability.
7. The Water Board may add to or modify the conditions of this certification, as appropriate, to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the CWC or section 303 of the CWA, or as appropriate to coordinate the operations of this Project with other projects where coordination of operations is reasonably necessary to achieve water quality standards or to protect the beneficial uses of water. Notwithstanding any more specific conditions in this certification, the Project must be constructed and operated in a manner consistent with all water quality standards and implementation plans adopted or approved pursuant to the CWC or section 303 of the CWA.
8. This certification does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or

becomes prohibited in the future, under the California Endangered Species Act (Fish and Wildlife Code, section 2050 et seq.) or the federal Endangered Species Act (16 USC, section 1531 et seq.). If a "take" will result from any act authorized under this certification, the Applicant must obtain authorization for the take prior to construction or operation of the Project. The Applicant is responsible for meeting all requirements of the applicable Endangered Species Act for the Project authorized under this certification.

### **Additional Conditions**

Pursuant to CCR, title 23, section 3859, subdivision (a), the following additional conditions are required with this certification:

1. The Project consists of a 103-mile long Mainline pipeline that roughly parallels Interstate 15 from the California/Nevada state line to Daggett and includes two delivery laterals, the Mountain Pass Lateral (8 miles of pipeline) and the High Desert Lateral (32 miles of pipeline). Portions of the Mainline and High Desert Lateral cross between watersheds containing WOUS and watersheds containing waters of the State only. The Mountain Pass Lateral is located entirely within a watershed containing WOUS. **This 401 WQC Order applies only to those portions of the Project that will occur within WOUS, as described in the Table of Project Information above and as located within the "Federal Jurisdictional Watershed" area of Enclosure 1.** Separate Water Board authorization is being issued concurrently with this WQC Order for those portions of the Project that will occur within waters of the State only.
2. Pending the findings of the pipeline right-of-way inspection, cover materials will be placed as needed and where needed so as to maintain a minimum 3-foot depth of cover over buried sections of the pipe. Authorized cover materials include soil and rip-rap (both clean and free of deleterious materials) and pre-cast articulated concrete-block, except as noted below.
  - a. Where the pipeline crosses the Mojave River (between mile posts 675 and 680), soil and ungrouted rock rip-rap are the only pre-authorized cover materials. The use of articulated concrete-block will be considered only if the following information is provided to Water Board staff for review a minimum of 5 working days prior to the scheduled repair: (1) a site-specific hydrologic analysis that evaluates depth of scour for specific design storm events; (2) technical specifications to verify that the proposed amount of articulated concrete-block is the minimum necessary to provide sufficient cover; and (3) justification and rationale to demonstrate that the use of articulated concrete-block at this location will not result in hydromodification effects upstream or downstream of the repair location, or otherwise impair the ability of the river to transport and move sediment, attenuate flood waters, and provide for groundwater recharge.

- b. In no instance will cover materials be placed above the natural grade of the channel so as to cause a condition of impoundment or change in the natural flow path of the waterway.
3. Minor modifications of Project cover repair locations and estimated water resource impacts may be necessary as a result of unforeseen field conditions. Once construction is complete, this Order may be amended to reflect actual water resource impacts (as reported in the Project Completion Report, see Additional Condition No. 4 below) and/or to require additional Application fees, if necessary. The placement of articulated concrete-block will be considered a permanent fill for purposes of tracking actual Project impacts.
4. To document the completion of the Project, the Applicant must submit a **Project Completion Report** to the Water Board within 60 days following completion of the Project, and no later than **September 1, 2015**. The Project Completion Report should include the following, at minimum: a summary of the Project activities, including the date(s) those activities were performed; identification of repair locations (tabulated with latitude/longitude and corresponding map with photo documentation), types of cover placed (soil, rip-rap, articulated block), and volume of cover used (cubic yards); the area and length of channel of permanent and temporary disturbance to WOUS at each repair location and cumulatively for the entire Project; a summary of the activities related to construction storm water controls and the BMPs used; and a summary of any activities that deviated from those described in the original application and supporting documents.
5. This Order does not authorize emergency repair activities. The Applicant is required to apply for separate authorization to perform emergency repairs should that be necessary.
6. All excess soil or rock rip-rap that is not used as cover material will be removed from the site and stockpiled or spread in an upland location. BMPs must be used, as needed, to temporarily stabilize stockpiled soils until such time that they are reused or permanently stabilized.
7. Work performed under this Order is authorized only during dry weather conditions. Should inclement weather occur, all work within the channel must stop and all equipment and materials must be removed to upland areas.
8. No debris, cement, concrete (or wash water there from), oil, or petroleum products must be allowed to enter into or be placed where it may be washed from the Project site by rainfall or runoff into surface waters.
9. An emergency spill kit must be at the Project site at all times during Project construction.

10. Construction vehicles and equipment must be monitored for leaks and proper BMPs must be implemented should leaks be detected or the vehicles/equipment must be removed from service, if necessary, to protect water quality.
11. The Applicant must permit Water Board staff or their authorized representative(s) upon presentation of credentials:
  - a. Entry onto Project premises, including all areas on which fill, excavation or mitigation is located or in which records are kept;
  - b. Access to copy any record required to be kept under the terms and conditions of this WQC;
  - c. Inspection of any treatment equipment, monitoring equipment, or monitoring method required by this WQC; and
  - d. Sampling of any discharge or surface water covered by this WQC.
12. The Applicant must maintain at the Project site a copy of this Order and a copy of the complete WQC application provided to the Water Board so as to be available at all times to site operating personnel and agencies.
13. The Applicant is responsible for informing any contractors of the specific conditions contained in this WQC Order.

### **Enforcement**

1. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation will 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 WQC.
2. In response to a suspected violation of any condition of this certification, the State Water Board or the Water Board may require the holder of any permit or license subject to this WQC to furnish, under penalty of perjury, any technical or monitoring report that the State Water Board or Water Board deems appropriate, provided that the burden, including costs, of the reports must be in reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
3. In response to any violation of the conditions of this certification, the Water Board may add to or modify the conditions of this certification, as appropriate, to ensure compliance.

**Section 401 Water Quality Certification Requirements Granted**

I hereby issue this Order certifying that any discharge from the referenced Project will comply with the applicable provisions of CWA, 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), and with other applicable requirements of state law. This discharge is also regulated under State Water Board Order No. 2003-0017-DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification," which requires compliance with all conditions of this WQC. A copy of State Water Board Order No. 2003-0017-DWQ is enclosed for your reference (Enclosure 2).

Except insofar as may be modified by any preceding conditions, all WQC actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the Applicant's Project description and the terms specified in this WQC Order, and (b) compliance with all applicable requirements of the Basin Plan.

We look forward to working with you in your efforts to protect water quality. If you have questions, please contact Jan Zimmerman, Engineering Geologist, at (760) 241-7376 [jan.zimmerman@waterboards.ca.gov](mailto:jan.zimmerman@waterboards.ca.gov), or Patrice Copeland, Senior Engineering Geologist, at (760) 241-7404 [patrice.copeland@waterboards.ca.gov](mailto:patrice.copeland@waterboards.ca.gov). Please use the WDID referenced in the subject line of this WQC for future correspondence regarding this Project.



PATTY Z. KOUYOUMDJIAN  
EXECUTIVE OFFICER

Enclosures: (1) Project Overview and Watershed Map  
(2) SWRCB Order No. 2003-0017-DWQ

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USEPA Wetlands Regulatory Office, Region 9 ([R9-WTR8-Mailbox@epa.gov](mailto:R9-WTR8-Mailbox@epa.gov))



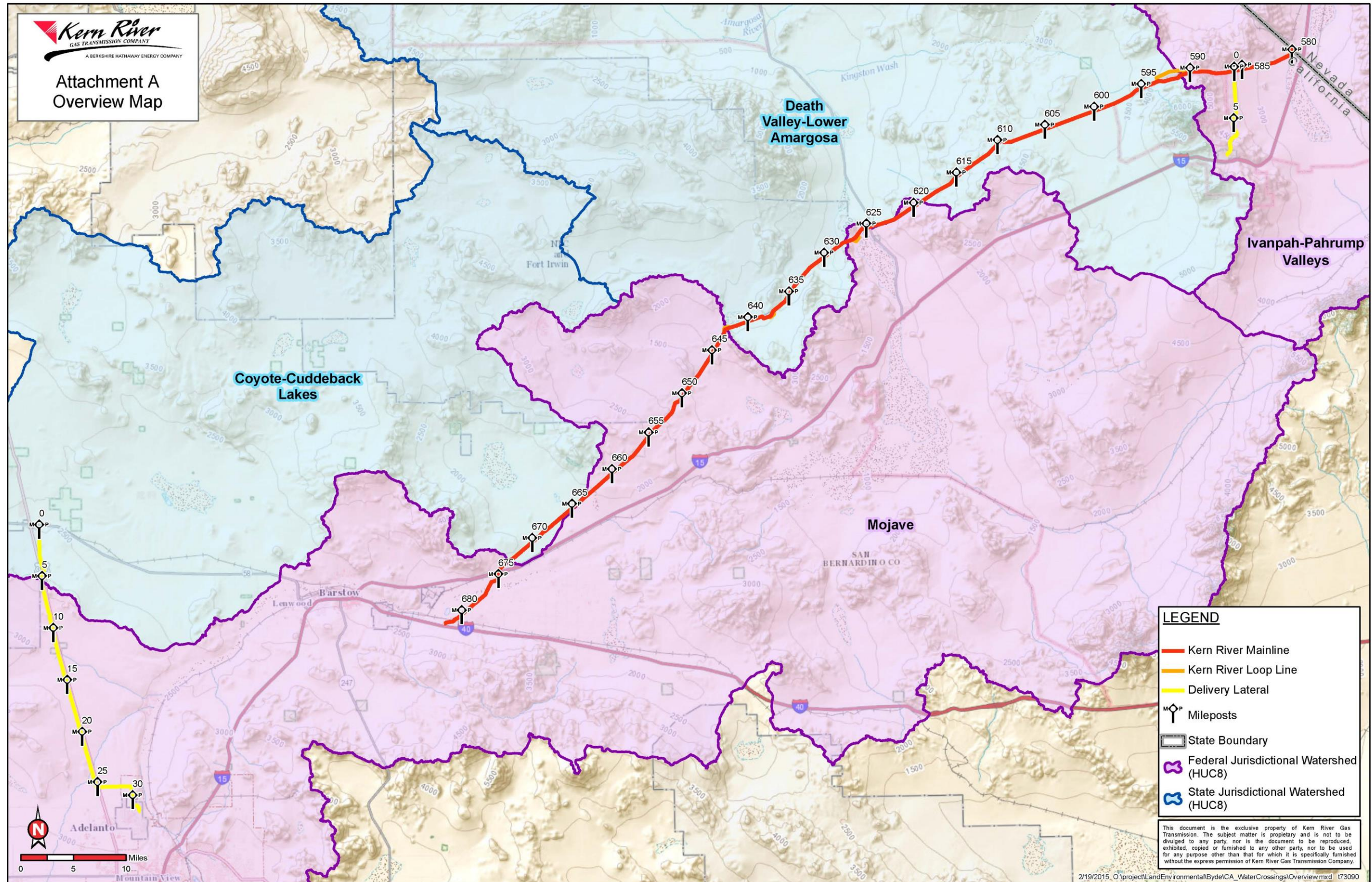
ENCLOSURE 1

Project Overview and Watershed Map





Attachment A  
Overview Map



**LEGEND**

- Kern River Mainline
- Kern River Loop Line
- Delivery Lateral
- Mileposts
- State Boundary
- Federal Jurisdictional Watershed (HUC8)
- State Jurisdictional Watershed (HUC8)

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