

NOTICE OF EXEMPTION

To: Office of Planning and Research
Post Office Box 3044
Sacramento, CA 95812-3044

From: California Department of Fish and Wildlife
Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534

Project Title: SFPP LS-16 Pipeline Exposure at Alameda Creek

Specific Project Location: The SFPP LS-16 Pipeline Exposure at Alameda Creek Project (Project) includes repair of an existing pipeline located near the Town of Sunol, Alameda County, California. The Study Area is along the LS-16; Concord – San Jose pipeline, where it intersects and crosses under Alameda Creek.

Project Location - City and County: Unincorporated Alameda County.

Description of Project: The Project involves the emergency repair of an existing petroleum products pipeline which crosses waters of the U.S. The project work will protect and restore a minimum of five feet of vertical cover to an approximately 20-foot long exposed section of the SFPP LS-16 pipeline where it crosses Alameda Creek. CDFW has issued the Incidental Take Permit (ITP) (2081-2020-035-03) in the present case as a lead agency for purposes of CEQA. (Id., § 21067).

Name of Public Agency Approving Project: California Department of Fish and Wildlife

Name of Applicant, Person, or Agency Carrying Out Project: Kinder Morgan

Applicant Address: 1001 Louisiana Street, Suite 1400, Houston, TX 77002

Exempt Status: Project Statutory Exemption; Pub Resources Code, §§ 21080.21 and 21080.23; Cal. Code Regs, tit. 14, §15284.

Reasons Why Project is Exempt: In its capacity as lead agency, CDFW determined that the Project and issuance of the ITP are subject to two statutory exemptions relating to pipelines. (Pub. Resources Code, §§ 21080.21 and 21080.23; Cal. Code Regs., tit. 14, § 15284). First, pursuant to Section 21080.21, the Project is statutorily exempt from CEQA because it involves maintenance activities on a section of pipeline that is less than one mile in length, within a public right-of-way, and part of a subsurface facility. Second, pursuant to Section 21080.23, the Project is statutorily exempt because CEQA does not apply to any project consisting of the inspection, maintenance, repair, restoration, reconditioning, relocation, replacement, or removal of an existing hazardous or volatile liquid pipeline or any valve, flange, meter, or other piece of equipment that is directly attached to the pipeline if the pipeline diameter will not be increased and the Project is not located within the boundaries of an oil refinery and it meets the following criteria:

- (1) The affected section of pipeline is less than eight miles in length and actual construction and excavation activities are not undertaken over a length of more than one-half mile at a time.
- (2) The affected section of pipeline is not less than eight miles distance from any section of pipeline that had been subject to this exemption in the previous 12 months.

- (3) The project is not solely for the purpose of excavating soil that is contaminated by hazardous materials.
- (4) To the extent not otherwise required by law, the person undertaking the project has, in advance of undertaking the project, prepared a plan that will result in notification of the appropriate agencies so that they may take action, if necessary, to provide for the emergency evacuation of members of the public who may be located in close proximity to the project, and those agencies, including but not limited to the local fire department, police, sheriff, and California Highway Patrol as appropriate, have reviewed and agreed to that plan.
- (5) Project activities take place within an existing right-of-way and that right-of-way will be restored to its pre-project condition upon completion of the project.
- (6) The project applicant will comply with all conditions otherwise authorized by law, imposed by the city or county as part of any local agency permit process, and to comply with the Keene-Nejedly California Wetlands Preservation Act (Public Resources Code Section 5810, et seq.), the California Endangered Species Act (Fish and Game Code Section 2050, et seq.), other applicable state laws, and all applicable federal laws.

Lead Agency Contact Person: Marcia Grefsrud, Environmental Scientist, (707) 644-2812

Signature:  **Date:** 7/14/2020

Name: Gregg Erickson, Regional Manager

Signed by Lead Agency **Date received for filing at OPR:**

Signed by Applicant **Governor's Office of Planning & Research**

Jul 16 2020

STATE CLEARINGHOUSE