SFPP, L.P.
Operating Partnership

July 21, 2008

Michael P. McCann
Assistant Executive Officer
9174 Sky Park Court
Suite100
San Diego, California 92123-4353

RE: Complaint No. R9-2008-0046 for Administrative Civil Liability
Violation of Order No. R9-2001-0096, NPDES No. CAG919002
SFPP, L.P. Mission Valley Terminal, San Diego, California

Dear Mr. McCann:

This letter is submitted as an addendum to our response to Complaint No. R9-2008-0046 dated June 27, 2008. Complaint No. R9-2008-0046 for Administrative Civil Liability ("ACL") dated June 6, 2008 was issued by the Regional Water Quality Control Board, San Diego Region, ("RWQCB") to SFPP, L.P., for discharges from SFPP, L.P.'s Mission Valley Terminal, in San Diego, California. SFPP, L.P. is an operating partnership of Kinder Morgan Energy Partners, L.P. (Kinder Morgan).

The purpose of this letter is to provide additional information regarding alleged violations for phosphorus, lead, fluoride, and dissolved oxygen in discharge water. Kinder Morgan's submittal dated June 27, 2008 noted concerns regarding the accuracy and validity of analytical results for phosphorus, lead and fluoride associated with effluent samples collected on April 12, 2005; January 20, 2006; and October 9, 2007 and that additional review of the available laboratory QA/QC data associated with these analyses was being conducted by Laboratory Data Consultants, Inc. (LDC) of Carlsbad, California. LDC specializes in the evaluation of quality assurance/quality control issues in environmental chemistry. The results of LDC's evaluation are summarized below and LDC's report is attached.

Phosphorus

An alleged violation (Violation ID No. 742342) was noted for phosphorus in discharge water at an Average Monthly Effluent Limitation (AMEL) of 0.167 mg/L (January 20, 2006), as compared to the AMEL discharge limitation of 0.1 mg/L. This average was based on analytical results of 0.15 mg/L (January 3, 2006) and 0.183 mg/L (January 20, 2006). Phosphorus is routinely analyzed using colorimetric methods (EPA 365.3, colorimetry) that are capable of accurate results at low concentrations. However, the sample collected on January 20, 2006 was analyzed using a spectroscopy method that is susceptible to spectral interferences due to high dissolved solids concentrations (EPA's Method 6010), a common characteristic of groundwater

in Mission Valley. After a more thorough review of the available record of associated quality control data, LDC concluded that no such interference appeared to be present in the analytical results but recommended that a colorimetric method like EPA 365.3 be utilized to eliminate possible interferences at low concentrations near the reporting limit.

Lead

An alleged violation was noted for lead in discharge water at a concentration of 10.8 µg/L (January 20, 2006), compared to the instantaneous discharge limitation of 2.5 µg/L (Violation ID No. 742343.). However, a review by LDC of the quality control data included in the analytical laboratory report indicated that the percent relative standard deviation (%RSD) of the emission reading was very high at 19.99%. This high %RSD raises concerns regarding the accuracy and reliability of this result due to the variability in the multiple exposures of the emission reading from the analytical instrument. Unfortunately, additional raw data for the individual exposures was not electronically saved in the laboratory archives, preventing further evaluation as to whether a positive bias might be present. LDC concluded that the reported result of 10.8 µg/L should be qualified as an estimate only. Considering the factor presented above, that this is the first alleged violation of lead on record, that historical analytical results for lead have been non-detect to a reporting limit of 1.0 µg/L (see attached plot of historical lead data), and LDC's conclusion that the result should be qualified as an estimate, Kinder Morgan does not believe that this data should be utilized for determining compliance.

Fluoride

Alleged violations were noted for fluoride in discharge water at concentration of 1.1 mg/L (April 12, 2005), 2.2 mg/L (January 20, 2006), and 1.1 mg/L (October 9, 2007) as compared to the instantaneous discharge limitation of 1.0 mg/L. No other fluoride issues have been encountered during the life of the project. However, upon further review of the data, sufficient reason to question the validity and accuracy of these data were identified by LDC. Data validity and accuracy issues identified by LDC include:

- **1.1 mg/L (April 12, 2005)** (Violation ID No. 443858) – This result was reported below the analytical laboratory's QA/QC reporting limit of 2.5 mg/L and the laboratory report states that this data is of "unknown quality".

- **2.2 mg/L (January 20, 2006)** (Violation ID No. 742344) – Review of the raw analytical laboratory data (not included in original lab report) suggests that the value for fluoride may have been miscalculated by the analysis software.

- **1.1 mg/L (October 9, 2007)** (Violation ID No. 741647) –The matrix spike sample and matrix spike duplicate sample for fluoride had percent recovery (%REC) values of 111% and 109%, respectively.

LDC has subsequently completed a more detailed QA/QC evaluation of the raw data associated with the sample collected on January 20, 2006 and concluded that the analytical results had been misinterpreted by the laboratory. Upon bringing this issue to the attention of laboratory, the data

was reevaluated and a revised result of 1.2 mg/L (with a reporting limit of 1.0 mg/L) was reported by the Calscience on July 11, 2008.

As previously noted in our submittal dated June 27, 2008, using these data as influencing factors for assessing other penalties greater than the MMPs does not seem appropriate given the issues identified above.

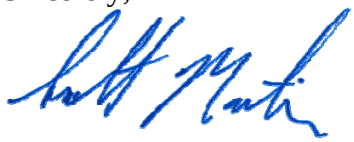
Additional Information Regarding Dissolved Oxygen Results

Alleged violations were noted for dissolved oxygen in discharge water at concentrations of 4.9 mg/L (July 31, 2007), 0.64 mg/L (September 11, 2007), and 3.09 mg/L (December 4, 2007), which are below the instantaneous minimum discharge limitation of 5.0 mg/L. The quality of these measurements were previously disputed and discussed in the self monitoring reports submitted on August 24, 2007, October 29, 2007, and January 29, 2008. As stated in those reports, based on historically stable observed concentrations of dissolved oxygen (see attached plot of historical dissolved oxygen data) it was believed that the uncharacteristic and anomalous low measurements of dissolved oxygen were more likely due to faulty measurements (e.g., calibration errors or improperly maintained monitoring equipment). The equipment being used was checked for proper function and calibration during this time period and was tested against calibration standards and separate, factory-calibrated meters. The results of this evaluation suggested that previous measurements were likely reported at levels below the actual dissolved oxygen concentrations. The previous dissolved oxygen monitoring equipment has since been replace with a more reliable meter that utilizes an optical dissolved oxygen sensor that is virtually free of susceptibility to calibration errors and maintenance issues that can influence the accuracy of the measurements. Kinder Morgan raised concerns with these data at the time that they were reported to the RWQCB and therefore does not believe that these data should be used for determination of compliance.

And lastly, as noted in our June 27, 2008 response to Complaint R9-2008-0046, Kinder Morgan initiated an in-depth investigation of nitrogen in extracted groundwater and began evaluating potential compliance options after subsequent routine sampling confirmed previously observed nitrogen levels were likely valid. On November 14, 2006, Kinder Morgan submitted a Total Nitrogen Investigation of Impact letter to the RWQCB presenting the results of investigative efforts to characterize the nature of the total nitrogen and to propose a study of the site-specific impacts of the nitrogen present in the discharge water (LFR, 2006b). A copy of email correspondence exchanged between LFR, Inc. (as agent for Kinder Morgan) and the RWQCB regarding the status of the RWQCB's review and response to the proposed study is attached**.** With each inquiry, the RWQCB indicated that their response letter was in varying stages of review and that Kinder Morgan should not initiate the study before a response was issued (LFR, 2007b). Further, Kinder Morgan understood from the communications with the RWQCB staff that an approval of the study was forthcoming and that a potential administrative resolution to the nitrogen issue might be feasible. A written response was eventually received 18 months later in the RWQCB's Response to Total Nitrogen Impact Investigation and Proposed Nitrogen Study dated May 15, 2008.

Kinder Morgan appreciates the RWQCB's consideration of our comments and requested corrections regarding Complaint No. R9-2008-0046. Please feel free to contact me at 714-560-4775 if you have any questions or need additional information.

Sincerely,



Scott E. Martin, P.G.
Manager, EHS – Remediation

cc: Nancy Van Burgel, Kinder Morgan
Kevin Ryan, Kinder Morgan
Katharine Wagner, Downey Brand
Jennifer Rothman, LFR
Jeremy Haas, RWQCB
Mark Alpert, RWQCB
Sean McClain, RWQCB

Attachments:

Report from Laboratory Data Consultants, Inc.
Graphical Plot of Historical Lead Data
Graphical Plot of Historical Dissolved Oxygen Data
LFR / RWQCB Email Correspondence

LABORATORY DATA CONSULTANTS, INC.
7750 El Camino Real, Suite 2L Carlsbad, CA 92009 Phone: 760/634-0437 Fax: 760/634-0439

LFR
3150 Bristol Street, Ste 250
Costa Mesa, CA 92626
Attn: Jennifer Rothman

July 12, 2008

Subject: **Review of Analytical Data (Work Order No. 06-01-0992) from Calscience Environmental Laboratory regarding the KMEP NPDES ACL Complaint (UPDATED REPORT)**

Per your request, Laboratory Data Consultants, Inc. has reviewed selected data related to the sample identified as "LFR-MVT-Effluent", 06–01-0991-1, Calscience report dated January 25, 2006. The review was limited to the Calscience report and associated raw data quantitation reports and chromatograms for lead, fluoride, and phosphorus.

The findings and observations were as follows.

1) For lead, the reported value of 10.8 ug/L was slightly above the reporting limit of 10.0 ug/L. Upon inspection of the raw data, the percent relative standard deviation (%RSD) of the emission readings were extremely high at 19.99%. This high %RSD raises concerns of the reliability of this result due to variability in the multiple exposures of the emission reading from the instrument. Additional raw data of the individual exposures was not electronically saved in the laboratory archives. No further evaluation could be made to determine whether a positive bias may be present. The result should be qualified as an estimate.

2) For fluoride, the value was initially reported (1/25/06) at 2.2 mg/L with a reporting limit of 1.0 mg/L. The analysis was performed by ion chromatography (EPA Method 300). In many laboratories, fluoride is not routinely analyzed by ion chromatography because of the known water dip in the chromatogram near the elution of the fluoride peak and very early elution time. Due to this interference, a simple Ion Selective Electrode Potentiometric procedure (EPA Method 340.2) is routinely performed.

   In reviewing the hardcopy sample chromatogram, the above referenced dip appeared to be present in the chromatogram and caused improper integration by the laboratory. Upon bringing this issue to the attention of the laboratory, the data was reevaluated and reintegrated taking in account the chromatogram dip. The revised result of 1.2 mg/L with a reporting limit of 1.0 mg/L was reported by Calscience on 7/11/08.

3) For phosphorus, the reported value was 0.183 mg/L with a reporting limit of 0.100 mg/L. The analysis was performed by Inductively Coupled Argon Plasma Atomic Emission Spectrometry (ICP- EPA Method 6010B). Phosphorus is also routinely analyzed by colorimetric methods because of possible low concentration spectral interferences on the ICP in the presence of high dissolved solids. Additional raw data including the interelement correction table and the interference check analyses were reviewed. Although no interference appeared to be present, it is recommended that a colorimetric method like EPA 365.3 be used to eliminate possible interferences at low concentrations near the reporting limit.

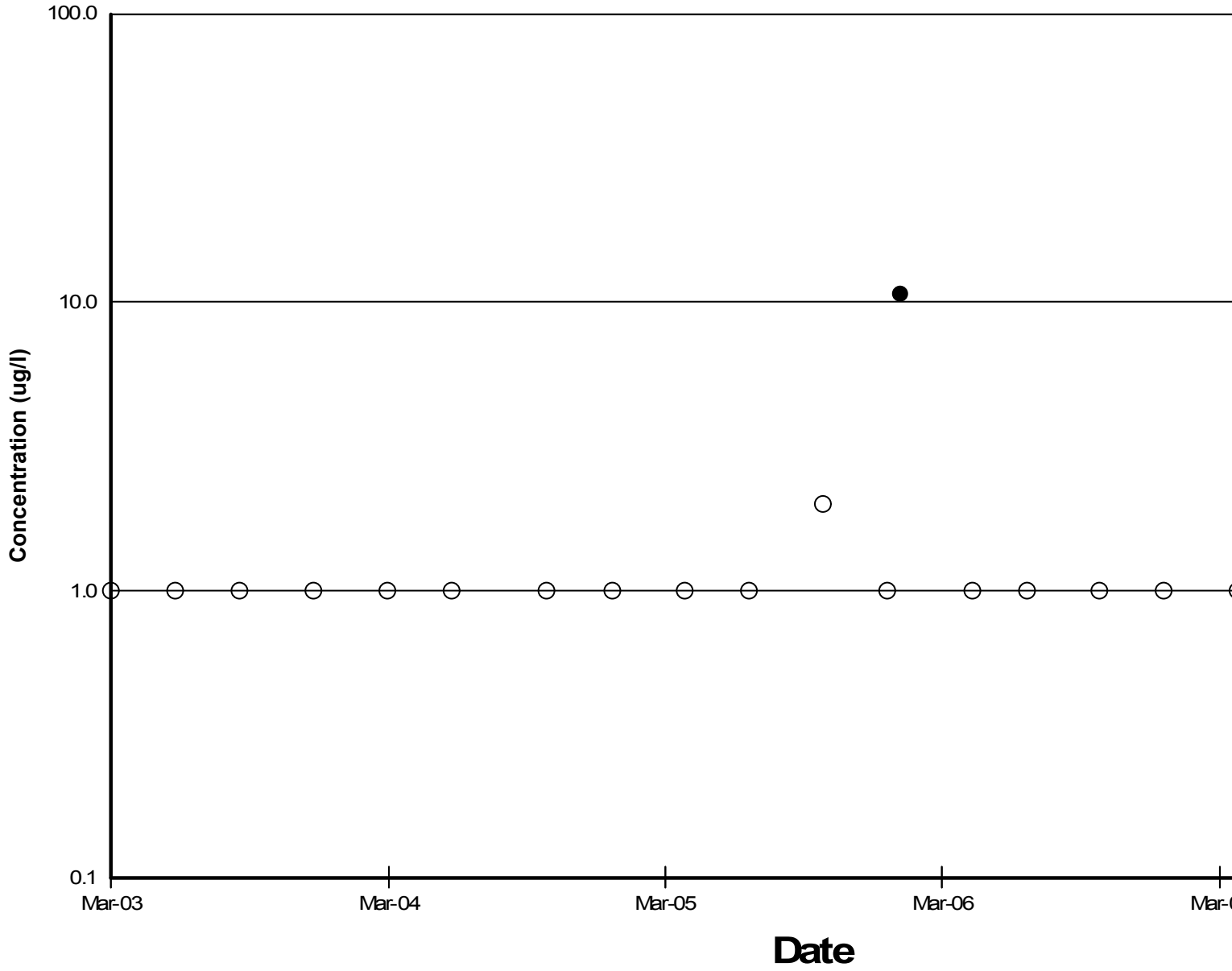
Please feel free to call me at LDC (760) 634-0437 if you have any questions.

Sincerely,

Richard M. Amano
Principal Chemist

Lead Concentrations in Treated Groundwater Discharge

Mission Valley Terminal, San Diego, California

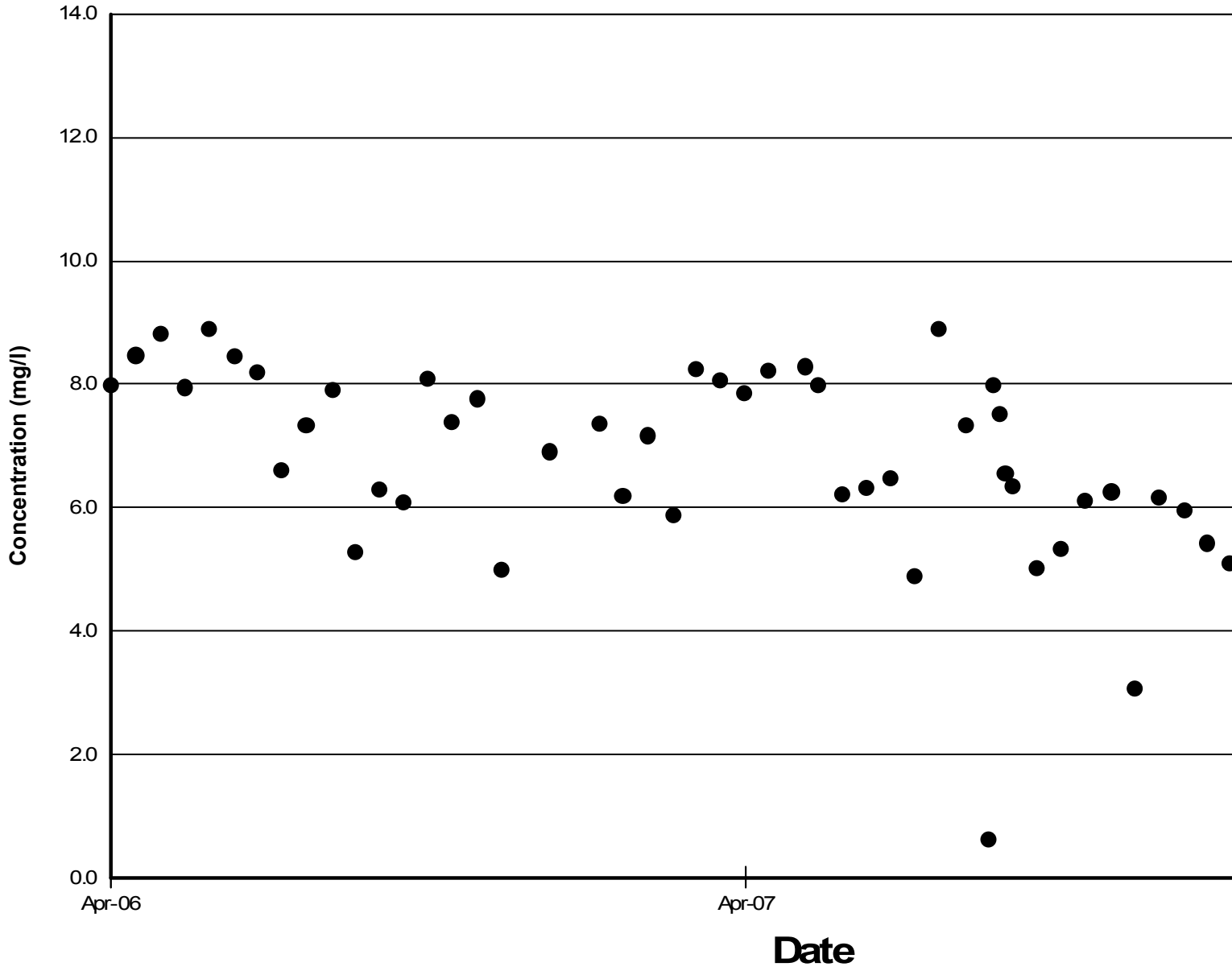


Non-detects shown a

071608KKM

DO Concentrations in Treated Groundwater Discharge

Mission Valley Terminal, San Diego, California



Non-detects shown a

Garbiero, Marcelo

From: Rothman, Jennifer
Sent: Monday, June 09, 2008 3:20 PM
To: Miyake, Keith
Cc: Garbiero, Marcelo
Subject: FW: MVT nitrogen study

-----Original Message-----
From: Brian Kelley [mailto:BKelley@waterboards.ca.gov]
Sent: Thursday, April 19, 2007 11:08 AM
To: Jennifer.Rothman@lfr.com
Subject: RE: MVT nitrogen study

Thanks Jennifer. We will let you know.

Brian

>>> "Rothman, Jennifer" <Jennifer.Rothman@lfr.com> 4/19/2007 10:18 AM
>>> >>>
Brian,

Thanks for the update. We do not plan on starting the study until we receive approval from the RWQCB. I just wasn't sure what the status was and wanted to let you know that we are ready to start if and when we receive approval.

So we will just sit tight until we hear back from you.

Thanks,
Jennifer

Jennifer Rothman, P.E.
Principal Civil Engineer
LFR
3150 Bristol Street, Ste. 250
Costa Mesa, CA 92626
714-755-7221 Direct Dial
714-444-0111 Main Number
714-444-0117 Facsimile
jennifer.rothman@lfr.com
Visit us at www.lfr.com

-----Original Message-----
From: Brian Kelley [mailto:BKelley@waterboards.ca.gov]
Sent: Thursday, April 19, 2007 9:52 AM
To: Jennifer.Rothman@lfr.com
Cc: Julie Chan; Whitney Ghoram
Subject: RE: MVT nitrogen study

Jennifer,

I would advise your client not to start the study. At this point, I don't want work to be done that will be a waste of money and effort. Currently, we have not approved the study and until we do, the results could be useless to your client and to us.

There are two issues to consider. First, the NPDES permit limitations for nitrogen and phosphorous are the numbers listed in the effluent limitations table. The permit would have to be modified to change the values in the permit. Second, any change in the permit limitations would need to be approved in conjunction with a TMDL for the San Diego River since that waterbody is listed as impaired on the federal list. Any study to change the objectives would need to be done with the Basin Planning unit's blessing.

Brian

Please take the time to fill out our customer service survey located at http://www.calepa.ca.gov/Customer/ .

Brian D. Kelley
Senior Engineer
San Diego Regional Water Quality Control Board
(858) 467-4254

>>> "Rothman, Jennifer" <Jennifer.Rothman@lfr.com> 4/18/2007 11:40 AM >>> >>>
Whitney,

What is the status of the letter? We are prepared to begin the proposed nitrogen study this month.

Regards,

Jennifer

Jennifer Rothman, P.E.
Principal Civil Engineer
LFR
3150 Bristol Street, Ste. 250
Costa Mesa, CA 92626
714-755-7221 Direct Dial
714-444-0111 Main Number
714-444-0117 Facsimile
jennifer.rothman@lfr.com
Visit us at www.lfr.com

-----Original Message-----
From: Whitney Ghoram [mailto:wghoram@waterboards.ca.gov]
Sent: Wednesday, February 21, 2007 2:01 PM
To: Jennifer.Rothman@lfr.com; Brian Kelley
Subject: RE: MVT nitrogen study

Hello Jennifer,

The letter has not been mailed out yet. Brian and I met with the Basin Planning Unit on the subject matter, and the results of that meeting, as well as the Branch Manager's input, has resulted in the need to rewrite the letter. It is taking longer than we had anticipated. Please pardon the delay. I will contact you when the letter is finalized. Thank you.

Whitney

Ms. Whitney J. Ghoram
Sanitary Engineering Associate
Southern Core Regulatory Unit
San Diego Regional Water Quality Control Board-Region 9
9174 Sky Park Court, Suite 100
San Diego, CA 92123
Phone (858) 467-2967
Fax (858) 571-6972
NOTE MY NEW E-MAIL ADDRESS: WGhoram@waterboards.ca.gov
Website: www.waterboards.ca.gov/sandiego

Please take the time to fill out our electronic customer service survey located at http://www.calepa.ca.gov/Customer/

>>> "Rothman, Jennifer" <Jennifer.Rothman@lfr.com> 02/21/07 12:23 PM >>>
Hello Brian and Whitney,

We never received this letter. Did it go out?

Regards,

Jennifer

Jennifer Rothman, P.E.
Principal Civil Engineer
LFR
3150 Bristol Street, Ste. 250
Costa Mesa, CA 92626
714-755-7221 Direct Dial
714-444-0111 Main Number
714-444-0117 Facsimile
jennifer.rothman@lfr.com
Visit us at www.lfr.com

-----Original Message-----
From: Brian Kelley [mailto:BKelley@waterboards.ca.gov]
Sent: Thursday, January 04, 2007 4:44 PM
To: Jennifer.Rothman@lfr.com
Cc: Whitney Ghoram
Subject: RE: MVT nitrogen study

Jennifer,

Happy New Year to you too. Yes I have reviewed the nitrogen study proposal and discussed it with several staff at the Regional Board. We are nearly complete with our written response and it should go out tomorrow or early next week. Whitney Ghoram will be finishing up our response letter.

Take care,
Brian

Please take the time to fill out our customer service survey located at http://www.calepa.ca.gov/Customer/ .

Brian D. Kelley
Senior Engineer
San Diego Regional Water Quality Control Board
(858) 467-4254

>>> "Rothman, Jennifer" <Jennifer.Rothman@lfr.com> 1/3/2007 4:13 PM >>>
Happy New Year!

Brian - Have you had a chance to review the proposed study?

Regards,

Jennifer

Jennifer Rothman, P.E.
Principal Civil Engineer
LFR
3150 Bristol Street, Ste. 250
Costa Mesa, CA 92626
714-755-7221 Direct Dial
714-444-0111 Main Number
714-444-0117 Facsimile
<mailto:jennifer.rothman@lfr.com> jennifer.rothman@lfr.com Visit us at www.lfr.com
<http://www.lfr.com/>

From: Whitney Ghoram [mailto:WGhoram@waterboards.ca.gov]
Sent: Tuesday, December 12, 2006 1:33 PM
To: Jennifer.Rothman@lfr.com
Cc: Brian Kelley
Subject: Re: MVT nitrogen study

Hello Jennifer,

I have reviewed the November 14, 2006 Nitrogen Study proposal. It looks acceptable to me. I have routed a copy to my supervisor, Brian Kelley, for his review and approval. Stand by for his response. Thank you for your patience.

Whitney

Ms. Whitney J. Ghoram
Sanitary Engineering Associate
Southern Core Regulatory Unit
San Diego Regional Water Quality Control Board-Region 9
9174 Sky Park Court, Suite 100
San Diego, CA 92123
Phone (858) 467-2967
Fax (858) 571-6972
NOTE MY NEW E-MAIL ADDRESS: WGhoram@waterboards.ca.gov <mailto:WGhoram@waterboards.ca.gov>
Website: www.waterboards.ca.gov/sandiego <http://www.waterboards.ca.gov/sandiego>

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>>> "Rothman, Jennifer" <Jennifer.Rothman@lfr.com> 12/6/2006 10:03 AM >>> >>>

Hi Whitney,

I hope you had a nice vacation.

Please let me know once you have had a chance to review LFR's November 14th letter outlining the proposed nitrogen evaluation for MVT. We will wait for the RWQCB's approval before giving Nautilus the go-ahead to begin the study.

Thank you,

Jennifer Rothman, P.E.
Principal Civil Engineer
LFR
3150 Bristol Street, Ste. 250
Costa Mesa, CA 92626
714-755-7221 Direct Dial
714-444-0111 Main Number
714-444-0117 Facsimile
 <mailto:jennifer.rothman@lfr.com> jennifer.rothman@lfr.com Visit us at www.lfr.com <http://www.lfr.com/>

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