

Third-Party Environmental Inspector

SCS shall contract with an independent third-party, approved by the Commission, to monitor compliance with this permit. More specifically, prior to construction, SCS shall file with the Commission its proposed third-party monitor's credentials, which shall include the individual's name, qualifications, and a description of how SCS proposes for the selected individual to monitor for compliance. After the third-party monitor has been approved by the Commission, the third-party monitor may not be removed by SCS without approval of the Commission. If the Commission determines that the third-party monitor has not been adequately performing the duties set forth for the position in this Order, the Commission may, upon notice to SCS and the third-party monitor, take action to remove the third-party monitor. At least 30 days prior to construction, SCS shall file with the Commission a plan that will be developed jointly with the selected third-party monitor. The plan will outline the specific terms and conditions of the third-party monitoring program that will include a minimum of the following considerations:

- a) The third-party monitor will be paid for by SCS, but will report directly to the Commission.
- b) The third-party monitor will work directly with the Public Liaison Officer, the SCS Environmental Inspectors, and Agricultural Inspectors to ensure compliance with the various conditions of the permit. In the event of a noncompliance, the monitor will have the obligation to timely notify SCS via the Environmental or Agricultural Inspector so as SCS can take the appropriate action to mitigate or correct the noncompliance. Should the third-party monitor report any noncompliance to the Commission or Staff, the report shall simultaneously be shared with SCS.
- c) The third-party monitor will have direct access to the company construction manager, project manager, or other company management staff and will have the ability to communicate any noncompliance issues or concerns that are not addressed or mitigated by the Environmental or Agricultural Inspectors.
- d) This condition will not include the monitoring of laws or processes that are otherwise under the inspection or jurisdiction of a different agency such as the USACE, USFWS, or PHMSA. The monitor will not inspect any technical design standard or requirement pursuant to 49 CFR Parts 194 and 195. However, should SCS be notified in advance of a compliance inspection to be conducted by any regulatory agency, SCS shall notify the third-party monitor of the inspection date, time, and location and afford the third-party monitor the opportunity to participate in the inspection for the purpose of submitting a summary report of the inspection to the Commission.
- e) The third-party monitor's contractual monitoring obligations to the Commission will require them to begin their monitoring responsibilities with the onset of mainline construction activities and will end at the conclusion of initial reclamation activities.
- f) The third-party monitor will comply with all SCS safety requirements. This includes the obligation to safely work, travel, and traverse within the limits of the construction work area and will be subject to SCS safety standards and processes at all times, under no exceptions. The third-party monitor must comply with all access points, travel restrictions within the construction work areas, and any special conditions or safety exclusion areas throughout the duration of construction. The third-party monitor must comply with all local, state, and federal laws and regulations.

g) The monitor will not have any stop work authority.

h) The third-party monitor shall prepare a report to the Commission or Staff as determined by the Commission that will include, at a minimum, the work areas that were monitored, any concerns, noncompliance events, any remediation or mitigation measures employed to ensure compliance with the various conditions of the permit, any additional steps to correct or remedy a noncompliance, and a list of any areas of concerns. The reports will be posted on the Commission's website for the public to view.