October 8, 2012

Patrick Flynn - Project Manager
Federal Highway Administration
Central Federal Lands Highway Division
12300 West Dakota Avenue
Lakewood, Colorado 80228

RE: ORDER FOR TECHNICALLY-CONDITIONED CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION FOR DISCHARGE OF DREDGED AND/OR FILL MATERIALS

PROJECT: Federal Highway Administration - CA PRA JOTR 11(5) Pinto Basin Flood Repair project, WDID No. 7A363015001

APPLICANT: Federal Highway Administration

ACTION:

1. ☐ Order for Standard Certification
2. ☒ Order for Technically-Conditioned Certification
3. ☐ Order for Denial of Certification

STANDARD CONDITIONS:

The following standard conditions apply to all certification actions, except as noted above under Action 3 for denials.

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to section 13330 of the California Water Code and section 3867 of Title 23 of the California Code of Regulations (23 CCR).

2. This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR

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 (Actions 1 and 2) shall be conditioned upon total payment of the full fee required under 23 CCR section 3833, unless otherwise stated in writing by the certifying agency.

4. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process, or sanctions as provided for under State law. For purposes of Clean Water Act (CWA) section 401(d), the applicability of any State law authorizing remedies, penalties, process, 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 Water Quality Certification (WQC).

   a. In response to a suspected violation of any condition of this WQC, the Regional Water Quality Control Board (Regional Water Board) may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the Regional Water Board deems appropriate, provided that the burden, including cost of the reports, shall be in reasonable relationship to the need for the reports and the benefits to be obtained from the reports.

   b. In response to any violation of the conditions of this WQC, the Regional Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.

ADDITIONAL CONDITIONS:

The following additional conditions apply to this certification:

1. This WQC applies towards the proposed project (Project) as described in the 401 application received by the Regional Water Board on September 10, 2012.

2. The Applicant shall provide the Regional Water Board and other interested agencies with written notification of any significant modifications made to the Project prior to implementation of the modifications.

3. This WQC does not convey any property rights of any sort or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.

4. This WQC does not authorize the Applicant or any associated party to trespass on any land or property unless the applicant has obtained written authorization or acquired a special use authorization permit from the land or property owner.

5. A copy of this WQC shall be provided to the appropriate onsite Supervisor for the Project. All personnel performing work on the proposed Project shall be familiar with the content of this WQC. Copies of the WQC shall be readily available at the Project site at all times during periods of active work and shall be presented to regulatory agency representatives upon request.

6. The Applicant shall grant Regional Water Board staff, or an authorized representative, upon presentation of credentials and other documents as may be required by law, to enter the Project site at reasonable times, to ensure compliance with the terms and conditions of this WQC and/or to determine the impacts the Project may have on waters of the United States.

7. The proposed Project shall not be enlarged or extend beyond the proposed Project impact area. The Applicant shall delineate the Project boundaries and staging areas with stakes, flags and/or temporary construction fencing.

8. The area of vegetation and soil disturbance shall be restricted to the smallest extent possible.

9. The Project shall not discharge substances in concentrations toxic to human, plant, animal, or aquatic life or that produce detrimental physiological responses.

10. The Project shall not discharge waste classified as "hazardous" as defined in Title 23 California Code of Regulations (CCR) section 2521, California Health and Safety Code section 25140, and Title 22, CCR, section 66260.10 et seq.

11. No oil, petroleum products, or rubbish shall be allowed to enter into or be placed where it may be washed by rainfall or runoff into waters of the United States.

12. No equipment maintenance will be done within or near any stream channel where petroleum products or other pollutants from the equipment may enter waters of the United States.

13. Equipment refueling shall not occur within waters of the United States.

14. Any oil or grease leaks shall be immediately cleaned up.

15. The Applicant shall ensure that all contaminated material and/or contaminated soil removed or excavated from the Project site is properly loaded, transported, and disposed of in accordance with Federal, State, and local regulations.

16. Staging/storage areas for equipment and materials shall be located outside of waters of the United States.

17. The Applicant shall ensure that all disturbed and filled areas are adequately stabilized and protected from erosion and siltation by implementing appropriate soil stabilization, sedimentation and silt control measures.

18. Any flow diversion used during construction shall be designed in a manner to prevent pollution, minimize siltation, and shall provide flows to downstream reaches. Flows shall be maintained to support existing aquatic life and riparian wetlands and habitat that may be located upstream and downstream from any temporary diversion.

19. The Applicant shall restore drainages, to the greatest extent possible, to the original bank configuration, stream bottom width, and channel gradient.

20. All temporary facilities and impacts shall be removed and restored to the preexisting conditions and contours to the extent practicable.

21. Construction related materials and wastes shall be removed from the Project site upon completion of the Project.

22. The Applicant shall submit Notice to the Regional Water Board within 60-days of completion of the Project. The Notice shall include: 1) a detailed summary of the mitigation and restoration activities implemented during the Project and 2) provide photographic documentation that supports the information summarized in the Notice.

23. The Regional Water Board reserves the right to suspend, cancel, or modify and reissue this WQC, after providing notice to the Applicant and/or responsible Site-Supervisor, if the Regional Water Board determines that the Project fails to comply with any of the terms or conditions of this WQC.

24. The Applicant shall orally notify the Regional Water Board of any noncompliance that may impact the beneficial uses of waters of the United States, as soon as notification is possible and notification can be provided without substantially impeding measures necessary to address the noncompliance.

REGIONAL WATER QUALITY CONTROL BOARD CONTACT PERSON:

If you have any questions, please contact Jay Mirpour, Water Resources Control Engineer, at (760) 776-8981 or jmirpour@waterboards.ca.gov.

WATER QUALITY CERTIFICATION:

I hereby issue an order certifying that any discharge from the referenced Project will comply with the applicable provisions of 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) of the Clean Water Act, and with other applicable requirements of State law.

Except insofar as may be modified by any preceding conditions, all certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the applicants' Project description and the attached Project Information Sheet, and (b) compliance with all applicable requirements of the Regional Water Quality Control Board's Water Quality Control Plan (Basin Plan).

Robert E Perdue

ROBERT PERDUE, Executive Officer
Colorado River Basin Regional Water Quality Control Board

JJM/

cc: James E. Mace, USACE Los Angles, Regulatory Division
Bill Orme, SWRCB, Division of Water Quality, Water Quality Certification Unit
Elizabeth Goldmann, U.S. Environmental Protection Agency, Region 9
Thomas A. Vandenberg, Office of Chief Counsel, SWRCB

File: Federal Highway Administration - CA PRA JOTR 11(5) Pinto Basin Flood Repair project, WDID No. 7A363015001

Mailing List:

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Water Quality Certification Unit
Division of Water Quality
State Water Resources Control Board
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Sacramento, CA 95814

Elizabeth Goldmann
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75 Hawthorne Street
San Francisco, CA 94105

Thomas A. Vandenberg (*)
Staff Counsel
Office of Chief Counsel
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

Note: (*) will e-mail electronic copy

PROJECT INFORMATION

Application Date: The original application was submitted on September 10, 2012.

Applicant: Federal Highway Administration
Contact: Patrick Flynn - Project Manager, 720-963-3721

Applicant Representative: Federal Highway Administration
Contact: Thomas Parker - Water Resource Specialist

Project Name: Federal Highway Administration - CA PRA JOTR 11(5) Pinto Basin Flood Repair project, WDID No. 7A363015001

Start and Completion: Construction will occur between January 1, 2013 and October 1, 2013.

Project Description: The proposed activity involves repair and stabilization of low water crossings damaged by a 25 year flood event along the ephemeral drainages which crisscross the cottonwood canyon roadway at the Southern entrance to Joshua Tree National Park. Stabilization and repair of the low water crossings within the project area ensures that safe and reliable access to the Joshua Tree National Park is maintained through the southern cottonwood canyon entrance.

Project Location: City or area: Joshua Tree National Park, Riverside County, California, Longitude/Latitude: Start: 33 44' 57.36"N, 115 49' 07.16"W; End: Township/Range: 33 42' 43.75"N, 115 48' 20.67"W

Acres and Linear Feet impacted: Streambed 1.49 acres; 1,675 feet (permanent)

Dredge: 268 cubic yards of soil/rock will be removed and 1,930.00 cubic yards of riprap will be placed for low water crossing stabilization.

Receiving Water(s): Pinkham Wash and other unnamed tributaries

Federal Permit(s): The project was determined to fall under the U.S. Army Corps of Engineers Section 404 Permit, Nationwide Permit (NWP) 3 – (Maintenance).

Status of CEQA: The Federal Highway Administration determined that this activity is Categorically Excluded by The Federal Highway Administration's Central Federal Lands Division (CFLHD) under National Environmental Policy Act (NEPA) on February 3, 2012. The Regional Water Board determined that the proposed project is categorically exempt from CEQA per CEQA Guidelines §15301 (Existing facilities). In accordance with CEQA Guidelines Section 15062, the Regional Water Board shall file a Notice of Exemption with the Office of Planning and Research upon approval of the CWA Section 401 WQC.

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NOTICE OF EXEMPTION

To:
Office of Planning and Research
1400 Tenth Street
Sacramento, CA 95814

From:
California Regional Water Quality Control Board
Colorado River Basin Region (Region 7)
73-720 Fred Waring Drive, Suite 100
Palm Desert, CA 92260

Project Title:
Federal Highway Administration - CA PRA JOTR 11(5) Pinto Basin Flood Repair project, WDID No. 7A363015001

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Project Location (City and County):
City or area: Joshua Tree National Park, Riverside County, California, Longitude/Latitude: Start: 33 44' 57.36"N, 115 49' 07.16"W; End: Township/Range: 33 42' 43.75"N, 115 48' 20.67"W

Name of Public Agency Approving Project:
California Regional Water Quality Control Board, Colorado River Basin Region

Name of Agency Carrying Out Project:
Federal Highway Administration

Exempt Status (CEQA Guidelines Section and Class):
The Regional Water Board determined that the proposed project is categorically exempt from CEQA per the CEQA Guidelines §15301 (Existing Facilities)

Reasons Why Project is Exempt:
The proposed project, as described above is categorically exempt from the California Environmental Quality Act in accordance with CEQA Guidelines §15301 – operation, repair, maintenance or minor alteration of existing public or private structures facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.

Contact Person - lead agency:

John Carmona, Senior WRCE **Phone**: (760) 340-4521

Signature	*Date*	*Title*
	10/4/12	**Senior Water Resources Control Engineer**

Date received for filing at OPR: _____

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(Rev. 07/19/06)