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**Colorado River Basin Regional Water Quality Control Board**

October 2, 2013

Mr. Paul Enriquez  
U.S. Customs and Border Protection  
24000 Avila Road, Suite 5020  
Laguna Niguel, CA 92677

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

**PROJECT:** U.S. Customs and Border Protection (CBP) Project - West Desert All-  
Weather Road, Phase B, El Centro - Imperial County, WDID No.  
7A333133001

**APPLICANT:** U.S. Customs and Border Protection

- 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 Colorado River basin 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 May 17, 2013. The updated information was provided on September 27, 2013.
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](mailto: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 Board's Water Quality Control Plan (Basin Plan).



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

JJM/

Enclosure: Project Information

cc: Lanika Cervantes, USACE Los Angeles District  
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: U.S. Customs and Border Protection (CBP) Project - West Desert All-Weather Road, Phase B, El Centro - Imperial County, WDID No. 7A333133001

### PROJECT INFORMATION

**Application Date:** Application was received by the Regional Water Board on May 17, 2013. The updated information was provided to our office on September 27, 2013.

**Applicant:** U.S. Customs and Border Protection  
Contact: Paul Enriquez, (949) 360-2382

**Applicant Representative:** CBP  
Contact: John Petrilla, (949) 360-2382

**Project Name:** U.S. Customs and Border Protection (CBP) Project - West Desert All-Weather Road, Phase B, El Centro - Imperial County, WDID No. 7A333133001

**Start and Completion:** The Project is scheduled to begin on October 1, 2013 and to be completed in February 2014.

**Project Description:** The purpose of the Project is to increase border security within the United States Border Patrol (USBP) - El Centro Sector with an ultimate objective of reducing illegal cross-border activity by providing safer and more efficient access for USBP agents along the U.S./Mexico border in the west desert area of the USBP - El Centro Station's area of responsibility. The primary need for the Project is because of the remoteness of the west desert area and the impassability of the existing road, which creates long drive times for agents to reach patrol areas and limits their ability to assist with interdictions and apprehensions. An additional need for the Project is to provide agents with the infrastructure necessary to carry out USBP's mission.

The Project includes the improvement and construction, operation, and maintenance of approximately 1.6 miles of all-weather roads. The Project involves the improvement of an existing border road and construction of a new access road to the top of BP Hill, where CBP operates a Remote Video Surveillance System (RVSS) tower. The border road would be improved to an all-weather surface road (1.4 miles long) approximately 20 feet wide with 2-foot shoulders and would

include any necessary drainage structures (i.e., culverts and low-water crossings).

In addition to the 1.4 miles of road improvement, a new access road (approximately 0.2 mile) leading to the BP Hill RVSS tower from the improved border road would be constructed. This road would be a 16-foot-wide road with necessary drainage structures and include all-weather surfacing. The total permanent footprint for the new access road to BP Hill would be 30 feet wide by 0.2 mile long. The temporary footprint would be 90 feet wide by 0.2 mile long. Upon completion of the improvements and construction activities, all temporarily disturbed areas would be rehabilitated per BLM guidelines.

**Project Location:**

City or Area: El Centro, County: Imperial  
Longitude/Latitude: Begins at N32° 38.89518, W115° 43.52994, Ends at N 32° 38.96544, W 115° 42.1974.  
Township/Range: Section 26, Township 17 South, Range 12 East, San Bernardino Meridian.

**Receiving Water(s):**

Pinto Wash is located north of the project area in the Salton Sea Watershed west of the Westside Main Canal and between the U.S./Mexico border and California State Route 98. Water may flow through this ephemeral wash into the Westside Main Canal, which eventually delivers water into the Salton Sea, or into delivery canals and through agricultural fields into drains and then into washes that flow to the New River and eventually into the Salton Sea.

**Project Impacts:**

The Project would not result in a permanent impact to any perennial or intermittent streams, as none are present within the project corridor. A total of six jurisdictional ephemeral Waters of the U.S. were identified during field surveys within the project corridor. The six ephemeral washes that are Waters of the U.S. would be traversed using concrete low-water crossings, reinforced concrete pipes, or box culverts. The expected total impact on those Waters of the U.S. is less than 0.35 acre. Tables below show the approximate permanent and temporary impacts in acres and linear feet to each Waters of the U.S.

**Linear Feet of Impacts on Waters of the U.S.**

	Temporary (Feet)	Permanent (Feet)	Total (Feet)
Waters of the U.S. 1	174.88	79.48	254.36
Waters of the U.S. 2	140.28	99.45	239.73
Waters of the U.S. 3	49.38	93.91	143.28
Waters of the U.S. 4	89.00	47.45	136.45
Waters of the U.S. 5	158.69	72.42	231.11
Waters of the U.S. 6	106.90	49.19	156.09
<b>Total</b>	<b>719.13</b>	<b>441.90</b>	<b>1,161.02</b>

**Acreage of Impacts on Waters of the U.S.**

	Temporary (Acre)	Permanent (Acre)	Total (Acre)
Waters of the U.S. 1	0.029	0.014	0.043
Waters of the U.S. 2	0.037	0.034	0.071
Waters of the U.S. 3	0.024	0.072	0.095
Waters of the U.S. 4	0.009	0.005	0.014
Waters of the U.S. 5	0.068	0.031	0.099
Waters of the U.S. 6	0.002	0.001	0.003
<b>Total</b>	<b>0.169</b>	<b>0.156</b>	<b>0.326</b>

The Project would not impact any surface water resource sites (i.e., lakes or permanent water sources) with the installation of the proposed roadway. Proper maintenance of construction equipment and the use of Best Management Practices (BMPs) during construction activities would minimize the possibility of accidental spills of petroleum, oil, and lubricants (POL) that, if they occurred, could affect surface water and groundwater quality. Operation and maintenance of the proposed roadways would have no effect on the region's surface water or groundwater supplies and/or quality.

**Best Management Practices:**

US Customs and Border Protection will implement the BMPs described in the Environmental Assessment Report.

BMPs such as the installation of straw bales and silt fences, will be employed to reduce or eliminate sedimentation or erosion as a result of the construction activities. Construction would not occur during the rainy season to avoid erosion and sedimentation issues.

CBP will avoid contaminating natural aquatic systems with runoff by limiting all equipment maintenance, staging, laydown, and dispensing of fuel, oil, etc., to designated upland areas.

No refueling or storage will take place within 100 feet of drainages.

Additionally, a Storm Water Pollution Prevention Plan and Spill Prevention Control and Countermeasure Plan will be developed and maintained to ensure that all are aware of its implementation requirements in the event of a spill.

All temporarily disturbed areas will be rehabilitated to its original condition.

Additionally, native organic material would be collected and stockpiled during construction to be used for erosion control after construction while the areas naturally rehabilitate.

Placement of riprap would reduce stream velocities and protect the drainage structure and downstream reaches from erosional forces.

**Federal Permit(s):**

This Project was determined to fall under the U.S. Army Corps of Engineers' Nationwide Permit Number 14 (Linear Transportation Projects).

**Status of CEQA:**

The Regional Water Board determined that the proposed project is categorically exempt from CEQA pursuant to CEQA Guidelines § 15301 (Cal. Code Regs., tit. 14, § 15301) (Existing Facilities) "Existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities (this includes road grading for the purpose of public safety)."

In addition to this exemption, the Regional Water Board determined that the project is also categorically exempt from CEQA pursuant to CEQA Guidelines § 15302 (Replacement or Reconstruction) (Cal. Code Regs., tit. 14, § 15302). This exemption applies to the replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced.

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 Clean Water Act Section 401 Water Quality Certification.