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

Review and Approval Block¹

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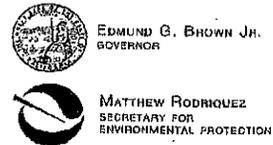
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Colorado River Basin Regional Water Quality Control Board

December 9, 2014

Mr. Allan Bankus
Painted Hills Mining Company
58645 Old Highway 60
Whitewater, CA 92282

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

PROJECT: This federal Clean Water Act Section 401 Water Quality Certification (WQC) (33 U.S.C. § 1341) is written for the Painted Hills Mining Company Super Creek Quarry Expansion and Reclamation Plan No. 137, WDID NO. 7A333144001

APPLICANT: Painted Hills Mining Company

- 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

ELLEN WAY, CHAIR | ROBERT PERDUE, EXECUTIVE OFFICER

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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 (Colorado River Basin 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 Colorado River Basin 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 Colorado River Basin 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 a 401 application received by the Colorado River Basin Water Board on September 24, 2014.
2. The Applicant shall provide the Colorado River Basin 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 Colorado River Basin 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 Colorado River Basin 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 Colorado River Basin 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 Colorado River Basin 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 Colorado River Basin 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.

December 11, 2014

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 Colorado River Basin Water Board's Water Quality Control Plan (Basin Plan).



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

JJM/kd

cc: James Mace, U.S. Army Corps of Engineers, 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
Arden Wallum, Mission Springs Water District

File: Painted Hills Mining Company - Super Creek Quarry Expansion and
Reclamation Plan No. 137, WDID NO. 7A333144001

or riparian vegetation. Any materials placed in seasonally dry portions of the canal/ drainage areas that could be washed downstream or could be harmful to aquatic life shall be removed from the streambed prior to inundation by high flows.

Additional BMPs:

A full list of BMP's and description for implementation is included in the Storm Water Pollution Prevention Plan (Stantec, April 2009). The erosion control design addresses: runoff onto and over the two proposed waste piles, runoff within the existing quarry area, future mining cast-off and runoff on the waste side of the existing quarry area, and runoff and erosion from the inactive eastern waste materials slope. The primary control devices proposed are wattles, water bars, excelsior fencing, detention basins, and rip-rap.

Federal Permit(s):

U.S. Army Corps of Engineers Section 404 Permit (pending).

Status of CEQA:

Lead Agency (State Mining and Geology Board) approved the above project on August 14, 2014 and has made the determinations that the 1) the project will not have a significant effect on the environment 2) A negative Declaration was prepared for this project pursuant to the provisions of CEQA 3) Mitigation measures were made a condition of the approval of the project 4) A mitigation reporting or monitoring plan was adopted for this project 5) A statement of Overriding Considerations was not adopted for this project 6) Findings were made pursuant to the provisions of CEQA. State Clearinghouse Number: 2014071005. The Colorado River Basin Water Board staff has reviewed the CEQA documentation and supporting documents, and has concluded that compliance with the BMPs and mitigation measures should prevent any significant impacts to water quality.

PROJECT INFORMATION

- Application Date:** This WQC applies towards the proposed project (Project) as described in a 401 application received by the Colorado River Basin Water Board on September 24, 2014.
- Applicant:** Painted Hills Mining Company
Contact: Mr. Allan Bankus
(760) 325-2747
- Applicant Representative:** Lilburn Corporation
Contact: Ms. Lorraine Bueno, (909) 890-1818
- Project Name:** Painted Hills Mining Company - Super Creek Quarry Expansion and Reclamation Plan No. 137, WDID NO. 7A333144001
- Start and Completion:** The proposed project would begin quarrying activities in an area within the approved mine boundary that would add an approximately 25 year supply of rock material.
- Project Description:** The Super Creek Quarry mines decorative rock. Existing operations are located on approximately 23.8 acres of quarry and approximately 27 acres of inactive tailing slopes within a 105.2 acre property. Painted Hills Mining proposes a 33.4 acre expansion for the development of additional quarry mining, waste placement areas, and sediment basins.
- The 28.9 acre expansion would provide decorative rock product to serve the local market for the upcoming 25 years. Under the proposed Plan of Operations, the existing extraction rate of 50,000 tons per year (up to 30,000 banked cubic yards (bcy)), including approximately 25,000 tons (16,667 bcy at 1.5 tons per bcy) of waste material would remain in place.
- Expansion of Super Creek Quarry would result in impacts to three drainages. The proposed mining area would be incrementally expanded. It is anticipated that ground disturbance in all areas will occur within five years. Implementation of the project would have the following impacts on each of the jurisdictional streams within the expansion footprint.

Drainage A

Under the proposed expansion, quarrying operations would be expanded to the west of the existing quarry to include two small hilltops just west of the existing operations. The new quarry areas would be mined to a maximum depth of approximately 130 feet in the hill area. The expansion of quarrying operations to the hilltops will impact approximately 0.06 –acres (Drainage A) of an unnamed headwater. The drainage only receives storm water; runoff flows west, down the hilltop to the White Water River.

Drainage A is an ephemeral drainage dominated by upland vegetation along the banks and bed. The vegetation is classified as brittlebush-white bursage series, and the channel receives water only during rain events. Approximately 0.06 acres of the drainage at the top of the hillside would be impacted by the expansion of the quarry.

Drainage C

Under the proposed expansion, two new areas for the placement of waste materials generated by the quarrying operation would be constructed; these include: the Northwest and Southwest Waste Placement Areas. The proposed Southwest Waste Placement Area would be located on the southwestern portion of the property. The Southwest Waste Placement Area would cover approximately 10 acres and have a capacity of approximately 500,000 cy. The existing access road through this area would be realigned as the area is developed. The waste placement area would be constructed with 2H:1V slopes with 10-foot wide benches at 25-foot vertical intervals. Construction of the Southwest Waste Placement Area would entail the removal of all loose alluvial soils below the proposed slope. As waste material is removed from the quarry, fill would be placed, not dumped, and spread evenly in thin lifts with conventional heavy equipment.

Drainage C is an ephemeral drainage dominated by upland vegetation along the banks and bed. The vegetation is classified as brittlebush-white bursage series; the channel receives water only during rain events. Approximately 0.27 acres of streambed associated with the drainage would be impacted by development of the Southwest Waste Placement Area.

Super Creek

Super Creek is located outside the eastern property boundary. The proposed project would construct a pipeline from a detention basin near the northwestern corner of the property, under the existing access road, to Super Creek. The purpose of the pipeline is to provide emergency spillway from the onsite detention basins system.

Under existing conditions, a series of 10 to 12 sedimentation basins exists at the base of the eastern tailings slope. Sedimentation Basin #1 is located at the north end of the slope and sedimentation Basin #12 is located at the south end of the slope. Overflow from each sedimentation basin beginning at Basin #1 is successively directed into the following basin, with Basin #12 being the last in the series. Overflow from Basin #12 is directed south from Basin #12 along the west side of the access road. The discharge leaves the Quarry Boundary when it flows over the access road into Super Creek.

The proposed project would eliminate Basin #1 and would construct a new detention basin with a riser and associated piping. Precipitation that intersects the surface of the Northwest Waste Placement Area is anticipated to be directed through channels and other erosion control BMPs into the detention basin at the base of the stockpile. Overflow from the detention basin will be directed through a riser and piping and discharged directly to Super Creek, located east of the basin on the opposite side of a dirt access road. Overflow through an emergency spillway will be directed into the existing chain of sedimentation basins along the eastern side of the access road parallel to Super Creek. All storm water on the eastern tailings slopes will eventually discharge into Super Creek.

The proposed basin would be constructed in the uplands and would not result in impacts to jurisdictional waters. The basin bottom will be 20'x25'. The Volume to the top of the riser will be 0.77 acre-feet, the total capacity will be 1.05 acre-feet. The riser and discharge to Super Creek would be activated when flow into the basin exceeds 0.77 acre-feet, if runoff volume exceeds 1.05 acre-feet, flows would be directed south through the existing basin system.

Construction of the pipe outlet would result in direct impacts to Super Creek. Impacts associated with the construction of the pipe outlet were calculated using the Federal Highway Administration Hydraulic Design of Energy Dissipaters for Culverts and Channels (Circular Number 14). The 24-inch pipe outlet would require a culvert extending 10 feet from the pipe outlet out to the channel bottom. Construction of the culvert would permanently impact an approximately 93 ft² area (0.002 acres). The rip-rap depth would be approximately 1.65 feet (0.5 m). A total impact area of approximately 435 ft² (0.01 acres) is anticipated during construction (0.008 acres temporary impacts for construction + 0.002 acres permanent impacts).

The total permanent impact to jurisdictional waters is 0.332 acres, total temporary impact is 0.008 acres.

Project Location: City or area: Desert Hot Springs, Riverside County, California. Longitude/Latitude: 33° 57' 7.39" N, 116° 37' 42.58" W

Receiving Water(s): Super Creek Wash and unnamed ephemeral drainages

Acres and Linear Feet Impacted: Streambed: 0.332 permanent, 0.08 temporary acres

Standard Best Management Practices (BMPs):

- No toxic and/or hazardous materials shall be stored near or within wash/drainage areas. To extent possible, these materials will be offsite and/or placed in appropriate secondary containment.
- Work and staging areas and temporary access routes will be sized, located and flagged so as to limit potential impacts to natural areas. Previous disturbed areas will be used to the extent feasible.
- No fueling or maintenance of equipment and/or vehicles shall occur adjacent or within the wash/drainage areas.
- Spoil sites shall not be located where spoil could be washed back into the river, or where spoil will cover aquatic