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SECRETARY FOR
ENVIRONMENTAL PROTECTION

Colorado River Basin Regional Water Quality Control Board

January 21, 2014

Mr. Darrin B. Miller
U.S. Bureau of Reclamation
Lower Colorado River Multi-Species Conservation Program (LCR MSCP)
P.O. Box 61470
Boulder City, NV 89006

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

PROJECT: U.S. Bureau of Reclamation - Pretty Water Conservation Area, Cibola National Wildlife Refuge - Imperial County, California, WDID No. 7B133035001

APPLICANT: U.S. Bureau of Reclamation

- 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

ELLEN WAY, CHAIR | ROBERT PERDUE, EXECUTIVE OFFICER

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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 a 401 application received by the Regional Water Board on September 24, 2013. Updated information was received on January 15, 2014.
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 Board's Water Quality Control Plan (Basin Plan).



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

JJM/

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. Bureau of Reclamation - Pretty Water Conservation Area,
WDID No. 7B133035001

PROJECT INFORMATION

Application Date: This WQC applies towards the proposed project (Project) as described in a 401 application received by the Regional Water Board on September 24, 2013. Updated information was received on January 15, 2014.

Applicant: U.S. Bureau of Reclamation - Lower Colorado River Multi-Species Conservation Program

Applicant Representative: N/A

Project Name: U.S. Bureau of Reclamation - Pretty Water Conservation Area, Cibola National Wildlife Refuge - Imperial County, California, WDID No. 7B133035001

Start and Completion: Construction of the initial portion of the project is anticipated to commence in January 2014 and be completed by December 2019.

Project Description: The purpose of this project is to restore approximately 566 acres of upland habitat, maximizing the honey mesquite habitat acreage while incorporating the other native land cover types where appropriate. The restoration will be accomplished by removing non-native vegetation, and planting honey mesquite and other native upland plant species, as well as providing a smaller area of cottonwood and willow riparian habitat. The work will be conducted in multiple phases over several years, to allow integration with other ongoing Multi Species Conservation Program (MSCP) habitat restoration efforts on the lower Colorado River.

By removing non-native phreatophytic vegetation (primarily salt-cedar) and replacing it with native vegetation, the LCR MSCP is establishing suitable habitat for a number of wildlife species covered under the program, and will provide resources to maintain the Conservation Area.

To accomplish restoration, heavy equipment will be used extensively. Vegetation, consisting primarily of salt cedar, will be cleared on the 566 acre site using dozers fitted with brush rakes. Root masses will also be removed using root knives/root rakes attached to the dozers. All woody debris will

be roughly compacted and buried on site in designated disposal areas or incorporated appropriately throughout the site as woody debris piles for wildlife habitat enhancement, when appropriate.

The Vegetation/Restoration Plan will incorporate native honey mesquite along the LCR into a mosaic of created habitats. Patch sizes of created habitats are designed and managed to provide habitat for more than one species as based on information in the LCR MSCP Habitat Conservation Plan and California Endangered Species Act Permitting (CESA) Permit for each species. Open areas (low shrubs) will be incorporated into the design. By employing this approach, a diverse habitat is anticipated. Selective clearing of the site may or may not leave all existing mesquite, depending on the condition of the mesquite.

Project Location: City or area: Cibola National Wildlife Refuge, Imperial County, California. Longitude/ Latitude: 114.707339W/33.335325N
Township/Range: 10 South / 21 East San Bernardino Meridian.

Receiving Water(s): Colorado River – No Impacts to river, only seasonally-flooded shrub wetland

Acres and Linear Feet Impacted: 23.7 temporary acres on jurisdictional wetland

Standard Best Management Practices (BMPs): During construction, the following standard BMPs must be utilized, where feasible:

- Placement of temporary exclusion fencing during construction activities to minimize impacts on waters, wetlands and habitat,.
- Discharger shall abide by all litter and pollution regulations.

- Raw concrete/cement and/or washings, asphalt, paint and/or other coating materials, oil, petroleum products or any other material resulting from project related activities shall be prevented from contaminating soil and/or entering the waters or wetlands.
- No equipment maintenance shall be conducted within or near the streambed or tributaries where petroleum products or other pollutants may enter these areas under any flow.
- No equipment storage and/or material stockpile areas will be located within the streambed or tributaries.
- Erosion control measures, including placement of wadding/straw bales, will be implemented during construction activities involving grading or excavation.

**Other Actions/Best
Management
Practices:**

Preserving Natural Vegetation – Existing native vegetation will be preserved depending on the plant species, plant health and plant location within the project site. Healthy native vegetation will be preserved in every instance that is possible.

Runoff, Sediment and Erosion Control Practices - Prior to the commencement of work on the site, appropriate existing vegetative buffers, sediment and erosion control measures will be installed between work areas and any surface waters. This will include construction site operator BMP inspection and maintenance for the duration of the project.

Project Scheduling and Construction Sequencing - In every instance that it is possible and practical, work will be performed in dry conditions. Due to the intermittent/ephemeral nature of the seasonally flooded shrub wetland areas that will be impacted on this project, the need in wet conditions is not expected. As a result, no runoff, erosion or sedimentation is expected to occur. The project site also is separated from the Colorado River by two levees, preventing any potential runoff into the river.

Dust Control measures (watering trucks) will be utilized during clearing activities to reduce impacts to air quality.

Appropriate specialized equipment will be used in all aspects of construction activities on the site. To minimize the potential of contaminant spills on the project site, all equipment used on site will be in good working order with no coolant, fuel or hydraulic leaks. If a leak does occur, the spill will be immediately contained and cleaned up and the piece of equipment will be removed from the work site and repaired before it is returned to work. Trained personnel and emergency spill kits will be present on site at all times when equipment is operating.

Long-term improvements in wildlife habitat and refuge quality are expected from this restoration project. This habitat restoration project will substantially increase the amount of functional native upland and riparian habitat on the site (approximately 566 acres total).

Federal Permit(s):

The project was determined to fall under the U.S. Army Corps of Engineers Section 404 Permit, Nationwide Permit (NWP) 27 - Aquatic Habitat Restoration, Establishment, and Enhancement Activities.

Status of CEQA:

USBR determined that this activity is Categorical Excluded by USBR under National Environmental Policy Act (NEPA), Categorical Exclusion (CE) check list for activities normally excluded from Environmental Assessment (EA) and Environmental Impact Statement (EIS) preparation (DOI 516 DM 14). 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.

File:

U.S. Bureau of Reclamation - Pretty Water Conservation Area,
WDID No. 7B133035001