



# State Water Resources Control Board

## Division of Water Quality

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Arnold Schwarzenegger  
Governor

Linda S. Adams  
Secretary for  
Environmental Protection

OCT 21 2008

Colonel Thomas Magness IV  
District Commander  
U.S. Army Corps of Engineers  
Los Angeles District  
915 Wilshire Blvd., Suite 980  
Los Angeles, CA 90017

Dear Colonel Magness:

### SMUGGLERS GULCH BORDER FENCE

Staff of the State Water Resources Control Board (State Water Board) and the San Diego Regional Water Quality Control Board (San Diego Water Board), along with representatives of various other agencies, recently attended a brief field tour of the U.S. Department of Homeland Security – Customs and Border Patrol's (CBP) Smugglers Gulch, Goat Canyon, and Yogurt Canyon Border Fence Projects, led by Project Manager Jason Price of the U.S. Army Corps of Engineers (USACE). This letter is to reiterate the serious questions and issues with environmental protection that were raised during that visit. These are not merely procedural issues. These concerns relate to actions that are necessary to ensure environmental protection at any project.

Homeland Security Secretary Michael Chertoff has stated that:

"... we value the need for public input on any potential impact of our border infrastructure plans on the environment – and we will continue to solicit it."

Secretary Chertoff also stated that:

"DHS's [Department of Homeland Security] environmental stewardship has been - and will continue to be - strong. Although the exercise of my authority under Section 102(c) of IIRIRA means that certain laws will be waived, DHS is neither compromising its commitment to responsible environmental stewardship nor its commitment to solicit and respond to the needs of state, local, and tribal governments, other agencies of the federal government, and local residents."

However, we have not seen evidence that these commitments made by the Secretary are being carried out for this project. On a site visit to the projects listed above on September 18, 2008, the following conditions were observed:

*California Environmental Protection Agency*

1. No temporary erosion control measures were observed on any part of the project area, except for the south (upstream) side of the road fill which was reported to be graded so that runoff would enter a detention basin. This issue should be a priority for all concerned with this project, in anticipation of winter storms that could arrive at any time.
2. No Storm Water Pollution Protection Plan (SWPPP) was in place. Having a SWPPP in place would help prevent this project from adding to the already heavy load of pollution in these watersheds.
3. Every access road observed was poorly designed for drainage. Indeed, most road segments observed exhibited poor grading practices and will likely erode if normal rainfall occurs. This will create environmental costs in the form of lost hydrologic function in the watershed and sediment deliveries to the estuary below. It will also create costs in the form of expensive remedial maintenance, and will create hazards for the agents using those roads.
4. A post-construction maintenance plan for prevention of road runoff, sediment, or other material moving off-site appears to be lacking at this time.
5. There was a large "footprint" of disturbed ground associated with pre-construction and construction activity.

In light of these observations and general project conditions, staff of the State Water Board and the San Diego Water Board respectfully submits the following recommendations and offers of assistances:

1. **PROVIDE FOR TEMPORARY AND PERMANENT EROSION CONTROL AND STORMWATER TREATMENT:** We recommend that a complete SWPPP, incorporating current design standards, should be prepared and implemented immediately. The SWPPP should address all stages of the project, including coverage during construction, immediately post construction, and for long term maintenance. Once completed, if we could be provided a copy of the SWPPP along with specifications for erosion and storm water treatments we would be willing to provide comments and assistance.
2. **PROVIDE FOR POST-CONSTRUCTION MANAGEMENT PRACTICES THAT PREVENT POLLUTION AND EROSION:** USACE and CBP should use the construction process as an opportunity to correct the drainage issues that were observed throughout the entire project area. These should include best management practices (BMPs) for road grading practices, road drainage, and erosion prevention. Water Board staff can assist CBP with technical advice and can assist in the development of specifications for and in obtaining training for CBP maintenance staff. We believe that good maintenance BMPs will reduce costs and improve safety while minimizing environmental effects.
3. **PROVIDE FOR MITIGATION AND MONITORING:** This project will have significant adverse impacts, especially permanent loss of wetlands and riparian habitats. We anticipate that compensatory mitigation measures can be obtained to help offset those effects. A long term commitment to monitoring of project conditions and effects is

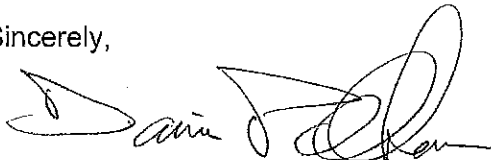
necessary in order to properly identify and address project effects. Water Board staff look forward to working with CBP staff to identify mitigation opportunities.

4. PROVIDE FOR BETTER COMMUNICATION: Water Board staff understand the unique circumstances of these projects. We are prepared to work cooperatively with all participating agencies and contractors to help ensure that environmental effects of these projects are minimized. For that reason, it would be helpful if there is clear designation of a contact person with whom we should work and who has authority to act on our suggestions, so that effective communication and collaboration can be achieved.
5. PROVIDE FOR RESTORATION AND REVEGETATION: As much as CBP agent safety allows, restoration and revegetation of all disturbed areas should be conducted as soon as they are not needed for construction.

Thank you for your consideration of these questions, comments, and recommendations. The staff of the State and Regional Water Boards are prepared to work cooperatively with USACE and CBP to help achieve the environmental protections promised by Secretary Chertoff for this and all of the Border Fence projects.

If you have questions, please contact me at (916) 341-5458 ([dpolhemus@waterboards.ca.gov](mailto:dpolhemus@waterboards.ca.gov)) or Cliff Harvey of the Division of Water Quality's Certification and Wetland Program at (916) 558-1709 ([charvey@waterboards.ca.gov](mailto:charvey@waterboards.ca.gov)).

Sincerely,



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