

DEPARTMENT OF STATE

[Public Notice 4242]

Finding of No Significant Impact and Summary Environmental Assessment—Mexicali—Calexico International Conveyor Belt, Imperial County, CA

The proposed action is to issue a Presidential Permit to Aggregate Products Inc. to construct, operate and maintain an international conveyor belt east of Calexico, California, and approximately 3,800 feet east of the Calexico II Port of Entry, and adjacent to Mexicali, Baja California, Mexico, the purpose of which is to transport aggregate materials (size-segregated rock and sand) from Mexico to Aggregate Products Inc.'s land in the Gateway of the Americas Specific Plan Area in Imperial County, California.

On November 19, 2001, the Bureau of Reclamation of the U.S. Department of the Interior issued the company a "License Relating to an International Transportation Conveyor Belt Crossing the All-American Canal System" to construct, operate and maintain the conveyor belt, "* * * within, on over and/or across certain lands which the United States owns in fee or has reserved Rights-of-Way * * *." The License applies to a "strip of land 20.00 feet in width * * *" with the centerline "* * * beginning at a point in the International Boundary between the Republic of Mexico and the United States of America * * *" and from that point north 541.87 feet "* * * to a point in the north line of the All-American Canal right-of-way." The north line of the All-American Canal right-of-way also marks the beginning of the Gateway of the Americas Specific Plan Area.

I. Background

The U.S. Department of State (the "Department") is charged with the issuance of Presidential Permits for the construction of international conveyor belts under Executive Order 11423 of August 16, 1968, 33 FR 11741 (1968), as amended by Executive Order 12847 of May 17, 1993, 58 FR 29511 (1993).

In 2000, Aggregate Products Inc. (the "Sponsor"), with the assistance of Giroux & Associates and Gibson Gonzalez Associates, initiated preparation of an environmental assessment of the potential environmental effects of the proposed International Conveyor Belt ("Environmental Assessment"). A draft final "Environmental Assessment, Calexico/Mexicali Conveyor Project, Calexico P.O.E./Mexico Border" was

completed on April 5, 2000. This was amended and supplemented by the "Environmental Assessment for Aggregate Products Inc. Conveyor Belt Project" dated March 7, 2001, and presented to the Department of State, which considered two alternative options together with the "no action" alternative.

The Department has acted as lead federal agency supervising preparation and completion of the Environmental Assessment and has engaged in follow-up inquiries concerning issues that have been raised with respect to the International Conveyor Belt by government agencies and by members of the public. The Department, acting in a manner consistent with its regulations for the implementation of the National Environmental Policy Act ("NEPA") in the context of its responsibilities with respect to Presidential Permits, has conducted its own, independent review of the Environmental Assessment, as supplemented. The Environmental Assessment has also been reviewed by numerous federal and sub-federal agencies. Each such "cooperating agency" has approved or accepted the Environmental Assessment, provided, in certain cases, that mitigation recommendations are followed. These cooperating agencies are:

U.S. Government: The Department of Agriculture, General Services Administration, United States Section of the International Boundary and Water Commission, Department of Transportation, Department of the Interior, U.S. Fish and Wildlife Service, U.S. Bureau of Reclamation, Environmental Protection Agency, Food and Drug Administration, Federal Emergency Management Administration, Department of Defense, Department of Commerce, Council on Environmental Quality and the Customs Service.

State of California: State Officer for Historic Preservation, Department of Transportation, and the California Technology, Trade and Commerce Agency. Imperial County: Air Pollution Control District, Department of Public Works, Department of Planning, Imperial Irrigation District.

Based on the draft final Environmental Assessment, as amended and supplemented, information developed by the Department during the review of the Sponsor's application and all comments received (referred to hereinafter collectively as the "Final Environmental Assessment"), the Department has concluded that the issuance of the permit will not have a significant impact on the quality of the human environment within the United

States. Therefore, an environmental impact statement ("EIS") will not be prepared. A summary of the assessment of potential environmental impacts is presented below:

II. Factors Considered

The California Department of Transportation calculates investments of over \$1 billion in near- and long-term border trade corridor projects. The decision to make major investments in upgrading and expanding the highway system in the border region and north to major population centers is directly attributable to the explosive growth in trade since NAFTA came into being. This unprecedented program of transportation improvements means higher demand for raw materials, including aggregate. For much of Imperial County, and areas of San Diego County as well, the closest source of quality aggregate is Mexico.

There are only a limited number of pits in Imperial County that yield, on a cost-competitive basis, sufficiently high quality aggregate to meet federal and state road construction standards. All these locations are far from the majority of major highway projects. The material from these pits also has high sand-to-gravel ratios, which increases the cost of processing the aggregates.

Finding new pits that yield high-grade aggregate is further complicated by the fact that much of the area where the aggregates exist, such as the foothill mountain ranges, is under government control. This includes military areas (Chocolate Mountains Naval Reservation Aerial Gunnery Range, U.S. Navy Bombing Area—Superstition Mountain, and Carrizo Impact Area) and State and Federal parks (Coyote Wilderness, Anza-Borrego Desert State Park, Jacumba Wilderness, and Algodones Sand Dunes).

Privately owned aggregate sites are generally located at distances that mean substantial transportation costs for projects in the border region. For example, all of the high grade aggregates used for the State Route 7 extension and the Commercial Vehicle Enforcement Facility were shipped from Salton Sea Beach, 74 miles from the Calexico II Port of Entry. The distance from the pit site in Mexico to the border is only 28 miles.

The Department in this case considered the two alternatives proposed. These are described in detail in the Final Environmental Assessment and in summary fashion as follows:

Alternative 1 (Project): The project involves the construction of a conveyor belt to import aggregate from Mexico. The aggregate will be brought to the

conveyor belt by truck from the mine site 28 miles to the south. The conveyor belt will run from a staging area in Mexico to Aggregate Products Inc.'s property in the Gateway of the Americas Specific Plan Area. In the United States, the belt will cross the All-American Canal and the adjacent rights-of-way. The area from the border to the canal structure, the service roads on the canal structure and the road between the canal structure and the company's property are all cleared land.

The belt will be approximately 550 feet long and 10 feet wide, and will be supported by standards or pylons, which will be fixed in place. The belt will be a minimum of 16 feet above the service roads that are a part of the canal structure as well as the road between the canal structure and the company's property.

The company projects imports of some 1,000,000 tons of aggregate annually at peak levels.

Alternative 2: This alternative involves the use of trucks only to transport the aggregate from the mine site, across the international border, through the U.S. Customs inspection facility, through the California State vehicle inspection facility and on to the company's property in the Gateway of the Americas Specific Plan Area.

At peak level imports of 1,000,000 tons per year, this alternative would require 40,000 round trips for trucks transporting 25 tons each.

Other Alternatives: Some consideration was given initially to moving the aggregate by rail car. This alternative was eliminated from further consideration because of the high capital investment required, the high per-unit costs of short-haul rail and the inevitable traffic congestion and social costs that would result in bringing hundreds of rail cars through downtown Mexicali and through areas of Calexico with inadequate grade crossings. Another alternative is the No Action Alternative, which would maintain the status quo of trucking the aggregate within the United States from distances of up to 74 miles. While maintaining the status quo is feasible, there are environmental costs associated with doing so, such as: (a) Air Quality. The added travel from existing aggregate resources would substantially increase the regional diesel exhaust burden, resulting in 15 to 37.5 tons per year of nitrogen oxides, and smaller amounts of other pollutants compared to the proposed project; (b) Noise. High-speed trucks are strong noise generators. Noise levels at sensitive receivers near regional access routes would be increased incrementally, especially for

any night or early morning materials deliveries; and (c) Transportation. Accident potential, road wear and congestion effects would be measurably increased by up to 5.4 million truck-miles per year on Imperial County roadways.

The No Action Alternative would also mean continuing reliance on higher-costs aggregates for tax-funded public projects. The California Department of Transportation, in particular, strongly supports the conveyor belt project because of its potential cost benefits to the State's taxpayers.

III. Summary of the Assessment of the Potential Environmental Impacts Resulting From the Proposed Action

The Environmental Assessment provides information on the environmental effects of the alternatives outlined above. On the basis of the Final Environmental Assessment, the Department makes the following determinations regarding the potential environmental impacts of Alternative 1, the Project Alternative.

Physical Conditions: The project will have minimal impact on any soils because the physical footprint of the conveyor system will be very small and will require only infrequent access. Imperial County APCD regulations and use permit conditions will require dust control measures for all traveled surfaces. Wind erosion will be minimal. Water will be applied for dust control, but not in amounts to create mud or cause water erosion. The proximity of the Imperial Fault will be the design basis for all on-site structures, including the conveyor system.

Vegetation: No federal or California listed endangered or threatened plant species occur within the project site. The project will not disrupt the vegetation found along the Alamo River, which is 60 feet from the company's property in the Gateway Specific Plan Area. The project site itself—the area between the International Boundary and the All-American Canal, the Canal Structure, and the road between the Canal and the company's property—is barren of vegetation.

Wildlife: (a) Fish. There are no endangered/threatened federal or California listed species that occur within the project area. (b) Birds. Several species of birds use the Alamo River for foraging. One federally listed endangered species, the Yuma Clapper Rail, was observed in a May 1998 field survey within a quarter mile of the project area. A very small stand of cattails was found approximately 75 feet east of the company's property, but no Yuma Clapper Rail were observed in the

area. (c) Mammals. Mammals could be displaced temporarily by construction activities. No federally or California listed mammals were observed in the project area. Impacts on wildlife are anticipated to be minimal and mitigated by the applicant's environmental commitments described below.

Cultural Resources: Due to historical ground disturbance, there are no known archaeological or historical sites of interest in the project area. A cultural resources assessment was completed in 2000 and no cultural resources were found at or near the proposed project site. The All-American Canal is eligible for listing on the National Register of Historic Places.

Water Resources: No significant effects on water quality are expected to result from the project. The conveyor, which will span the All-American Canal when in use, will have a spill containment catch-tray to prevent spillage of material into the Canal.

Recreation: There are no recreational resources on or near the site potentially affected by the project.

Hazardous Substances: All POLs, hazardous substances and hazardous wastes will be handled in accordance with federal, state and local regulations. Hazardous wastes will not be burned, dumped in trash containers, deposited in landfills, buried, left on the ground or dumped in ditches. Any spills of hazardous wastes will be properly contained and the contamination handled in accordance with current regulations.

Air Resources: This alternative can be expected to cause a short-term, localized effect on fugitive particulate levels as a result of earth moving during construction. The construction area will be watered and a buffer distance maintained to protect plants and animals and minimize blowing dust. Dust emissions during operations will be minimized by compliance with air district rules against dust nuisance. Aggregate on the conveyor belt will be "misted" as a dust control measure. Overall, short term air effects are anticipated to be outweighed by the long term benefits to air quality that the project represents as compared with any alternative that was considered (e.g., the no action alternative).

Noise: There will be a short-term increase in noise levels during construction. There will be mobile equipment noise and noise from the conveyor belt during operations. There are no known noise sensitive receivers in the immediate vicinity of the project. County ordinance will restrict the hours of construction noise and operational noise will not exceed Imperial County

standards. Short term noise effects are anticipated to be outweighed by the long term noise reduction that the project represents as compared with any alternative that was considered (e.g., the no action alternative).

Environmental Justice/Socio-Economic Concerns: There will be a "no effect" on minority and/or low-income communities in the immediate vicinity of the project.

Health and Safety Concerns: The project is designed to minimize health and safety concerns. California State agencies regulate operations around moving equipment and all safety features required by law will be utilized. The proximity of the Imperial Fault will be the design basis for all on-site structures, including the conveyor system. The design of the conveyor pylons will prevent any unauthorized use of the conveyor to cross the All American Canal.

Possible Conflicts Between the Action and the Objectives of Federal, Regional, State and Local Use Plans, Policies and Controls for the Area Concerned: This project will be consistent with the defined land usage. The sponsor, Aggregate Products Inc. will be responsible for ensuring that all applicable environmental and construction permits are obtained prior to the implementation of any portion of this project.

Energy Requirements and Conservation Potentials: This project will cause no significant increase in energy requirements, which are limited to conveyor operations and loading/transport of aggregate materials for distribution and use in the Gateway project area.

Any Irreversible and Irrecoverable Commitments of Resources: The project will be consistent with defined land usage. The commitments of resources will cause a small increase in energy for aggregate conveying, handling and transport, and in water for dust control. Such a commitment is not a significant increase in terms of regional resource availability.

Relationship Between Local Short-Term Use of Man's Environment and Maintenance and Enhancement of Long-Term Productivity: This project will be consistent with the defined land usage and is viewed as a short-term solution to the lack of aggregate resources and building materials in the project vicinity. The conveyor system disturbance "footprint" is sufficiently minimal as to readily allow return of the site to existing uses if the building materials market should diminish. The aggregate receiving and storage site could similarly be returned to existing

uses, but the mixed industrial zoning of that parcel would likely result in eventual conversion to some non-agricultural use regardless of project implementation.

Probable Adverse Environmental Effects Which Cannot Be Avoided: The project will create human and equipment activities near biotic habitats at a greater level of intensity than do existing agricultural operations. However, the effects on wildlife are expected to be minimal. Any potential impacts would be mitigated by the environmental commitments by the applicant described below.

Probable Adverse Environmental Effects Which Cannot Be Avoided Due to Associated Cumulative Effects: The airshed is an air quality non-attainment area for particulate matter (PM-10). Any addition of particulate represents a potential for a cumulative impact. However, the proposed project is consistent with the level of development anticipated for the site parcel as part of the Gateway Specific Project Area environmental assessment process. Mitigation measures to control dust, light and noise associated with the conveyor belt project will reduce the cumulative impact of the receiving, storage and processing site operations. Cumulative impacts will also result from a number of activities that federal and state agencies may undertake. Border Patrol inspection is expected to intensify in conjunction with Gateway development. Imperial Irrigation District maintenance of the Canal may create temporary emissions of noise or dust. The standard California Department of Transportation practice to pave roads at night may require occasional night aggregate processing operations.

IV. Environmental Commitments

To ensure consistency with this FONSI as well as that of the Bureau of Reclamation, the sponsor, Aggregate Products Inc., has undertaken the following environmental commitments:

1. No company construction activities or company trucking would be allowed on the Imperial Irrigation District right-of-way adjacent to the Alamo River.
2. All efforts will be made to minimize particulate matter, lighting and noise that might affect wildlife.
3. A biologist will do a pre-construction survey to identify and protect any wildlife in the project area. All construction activities would avoid migratory bird species and their nests.
4. Any injured wildlife would be reported and/or taken to the proper authorities for rehabilitation.
5. In the event of unexpected discovery of archaeological or historical

cultural resources, all activity shall cease in the area of discovery. Immediate telephone notification of the discovery shall be made to a responsible federal agency official. In addition, all reasonable efforts to protect the cultural resources discovered shall be made. The activity may resume only after the federal agency official has authorized a continuance.

6. The All-American Canal is eligible for listing on the National Register of Historic Places (CA-IMP-7320-H). This project will result in no adverse effects to those qualities of the Canal that qualify it for listing on the National Register. All construction must adhere to the proposed construction plan. There will be no impacts to the Canal during the life of this project. All weight bearing footings will be outside the Canal footprint and away from the exterior toe slope. Heavy equipment will be kept away from the Canal at all times.

7. Measures will be taken to prevent conveyed materials, including soil and rock, from being dropped into the Canal in order to avoid adverse effects on the current water quality.

8. All construction shall comply with applicable seismic codes to minimize failure during a possible earthquake on the Imperial Fault.

9. All petroleum, oils, and lubricants (POL) will be properly contained. Waste POLs and other articles, such as batteries, will not be burned, dumped in trash containers, deposited in landfills, buried, left on the ground or dumped in ditches. All materials brought out to the project will be disposed of in a proper manner.

10. Any spills of POLs or hazardous wastes would be properly contained and the contamination cleaned up and disposed of in accordance with current regulations. All spills will be immediately reported to the HAZMAT office in Calexico.

11. To protect plants and wildlife and minimize blowing dust, the area would be watered during construction and site operations.

12. There would be a short-term increase in noise levels during construction. Proper ear protection would be used by all personnel working in the area.

13. A berm and fence shall be erected along the eastern property line separating the aggregate receiving/distribution site from the Alamo River. Fencing material shall be made partially opaque to reduce glare and act as a dust transport barrier.

14. Landscaping shall be planted along the site frontage along any public

road to visually screen the site and provide potential wildlife habitat.

15. All herbicides used in landscape maintenance will be properly approved and applied in accordance with all regulations.

16. The conveyor system shall be designed to prevent unauthorized access by non-project personnel to minimize danger of falls or injury.

V. Conclusion: Analysis of the Environmental Assessment Submitted by the Sponsor

Based on the Department's independent review of the Final Environmental Assessment, comments received during its preparation and comments received by the Department from Federal and State agencies including measures which the sponsor has committed to take to prevent potentially adverse environmental impacts, the Department has concluded that issuance of a Presidential Permit authorizing construction of the proposed Mexicali-Calexico International Conveyor Belt, as proposed to be constructed in Alternative No. 1 as set forth in the Environmental Assessment, would not have a significant impact on the quality of the human environment within the United States. Accordingly, a Finding of No Significant Impact is adopted and an environmental impact statement will not be prepared.

The Final Environmental Assessment prepared by the Department addressing this action is on file and may be reviewed by interested parties at the Department of State, 2200 C Street NW., Room 4258, Washington, DC 20520 (Attn: Mr. Dennis Linskey, Tel 202-647-8529).

Dated: December 20, 2002.

Dennis Linskey,

*Coordinator, U.S.-Mexico Border Affairs,
Office of Mexican Affairs, Department of State.*

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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Issuance by the Free Trade Area of the Americas (FTAA) Committee of Government Representatives on the Participation of Civil Society of an Open and Ongoing Invitation for Public Comment

AGENCY: Office of the United States Trade Representative (USTR).

ACTION: Notice.

SUMMARY: The Office of the United States Trade Representative (USTR) is providing notice that the Committee of Government Representatives on the Participation of Civil Society (Civil Society Committee), established by the 34 countries participating in the negotiations for the Free Trade Area of the Americas (FTAA), has issued an Open and Ongoing Invitation for public comment on all aspects of the FTAA, including: The second draft consolidated texts of the FTAA Agreement, released to the public on November 1, 2002; the ongoing FTAA negotiations; and the FTAA process in general. Submissions in response to the Invitation should be sent directly to the FTAA addresses indicated below.

DATES: Public comment in response to the Open and Ongoing Invitation is welcome by the FTAA Civil Society Committee on a continuing basis. For submissions to be reflected in the Committee's Report to the FTAA Ministers for their eighth meeting in Miami, Florida in the fourth quarter of 2003, submissions must be received by the Chairperson of the FTAA Civil Society Committee no later than May 1, 2003.

ADDRESSES: The public is strongly encouraged to submit documents electronically. Submissions should be sent directly to the "Chair of the Committee of Government Representatives on the Participation of Civil Society," at only one of the following addresses:

Submissions by electronic mail:
soc@ftaa-alca.com.

Please note that submissions from civil society will be received at the addresses below up to February 24, 2003. After this date, the official FTAA Web site (<http://www.ftaa-alca.org>) will list the corresponding addresses of the new headquarters of the FTAA Administrative Secretariat in Puebla, Mexico.

Submissions by facsimile: (011) (507) 270-6993.

Via Postal Mail: c/o Secretaria del Area de Libre Comercio de Las Americas (ALCA), Apartado Postal 89-10044, Zona 9, Ciudad de Panama, Republica de Panama.

Via Private Messenger/Couriere Service: c/o Secretaria del Area de Libre Comercio de Las Americas (ALCA), Hotel Caesar Park Panama, Via Israel y Calle 77, San Francisco, Ciudad de Panama, Republica de Panama.

FOR FURTHER INFORMATION CONTACT: The official version of the Open and Ongoing Invitation for public comment and a cover sheet identifying information to be included with

submissions to the Civil Society Committee are available on the USTR Web site (<http://www.ustr.gov>) and the official FTAA Web site (<http://www.ftaa-alca.org>). The cover sheet is reproduced below. The USTR and FTAA Web sites also contain background information regarding the FTAA negotiations, including the second draft consolidated texts of the FTAA agreement, the Civil Society Committee's Report of November 2002 to the FTAA Trade Ministers, and the Quito Ministerial Declaration. Any questions concerning the Open and Ongoing Invitation should be addressed to Christina Sevilla, Director, USTR's Office of Intergovernmental Affairs and Public Liaison, at (202) 395-6120. Questions regarding the FTAA negotiations should be addressed to the agency's Office of the Americas at (202) 395-5190.

SUPPLEMENTARY INFORMATION:

1. Background

Committee of Government Representatives on the Participation of Civil Society

At the 1998 FTAA Ministerial meeting in San Jose, Costa Rica, the hemisphere's trade Ministers jointly recognized and welcomed the interests and concerns expressed by a broad spectrum of interested non-governmental parties in the hemisphere, and encouraged these and other parties to provide their views on trade matters related to the FTAA negotiations. In order to facilitate this process, the Ministers agreed to establish the FTAA Civil Society Committee. Since its first meeting in October 1998, the Committee has approved four Open Invitations, the latest on December 10, 2002, soliciting views from the hemisphere's public. The Open Invitations were announced on the FTAA Web site, and countries agreed to use national mechanisms to disseminate the invitations further. In the United States, the invitations were disseminated through a variety of means, including press releases, notices to advisory committees, **Federal Register** notices, and public meetings.

The Committee has prepared reports for Ministers describing the submissions it received from the public. These reports have been published on the official FTAA Web site. Since April 2001, the Committee has provided, directly to the negotiators in each FTAA entity, the submissions received from the public.

Quito Ministerial Mandate

At the seventh FTAA Ministerial Meeting held in Quito, Ecuador, on