

OWD proposes to construct approximately 5 miles of 36-inch cement mortar lined and coated steel pipeline to transfer potable water from a flow control facility in the City of El Cajon to two OWD reservoirs in the unincorporated community of Rancho San Diego. The pipeline will provide 12 million gallons (mgd) of potable water per day of on-peak capacity and 16 mgd of off-peak capacity. The proposed pipeline will be constructed in existing roadways for approximately 22,600 feet (4.2 miles) from the northwest corner of Lexington Avenue and Third Street in the City of El Cajon, to Fury Lane in Rancho San Diego. The proposed pipeline would then continue for approximately 4,300 feet (0.8 miles) as it passes through both disturbed and vegetated areas along the southern boundary of Cuyamaca Community College before terminating at OWD's Regulatory Site, where it would connect to the reservoirs. Maintenance activities in subsequent years will be limited to annual visual inspections of the valves and blow-offs located along the pipeline, all of which occur within or immediately adjacent to (and would be accessible via) existing developed or disturbed areas. Up to 0.95 acre (ac) of coastal California gnatcatcher habitat may be temporarily lost through implementation of the HCP over 5 years.

OWD proposes to mitigate the effects to the gnatcatcher by fully implementing the HCP. The HCP emphasizes protection of habitat through impact avoidance and use of operational protocols designed to avoid or minimize impacts to the gnatcatcher. OWD will supplement these operational protocols, or avoidance and minimization measures, with onsite habitat restoration, by re-seeding the 0.95-ac impact site with a Diegan coastal sage scrub (DCSS) mixture approved by the Service. Additionally, OWD will permanently conserve and manage high-quality gnatcatcher habitat by deducting credits from the San Miguel Habitat Management Area (HMA).

The Proposed Action consists of the issuance of an incidental take permit and implementation of the proposed HCP. Three alternatives to the proposed action are considered in the HCP. Under the no-project alternative, a permit would not be issued, and OWD would avoid take of the coastal California gnatcatcher. However, this alternative would not allow for the necessary transfer of water from the Otay 14 Flow Control Facility to OWD's 640-1 and 640-2 reservoirs. In addition, the no-project alternative would not be in compliance with the agreement between the San Diego County Water Authority

and OWD for design, construction, operation, and maintenance of modifications to the Otay 14 Flow Control Facility, executed on January 24, 2007, which requires the construction of the 36-inch pipeline to transfer the necessary amount of water; OWD's existing 24-inch line is not sufficient to transfer the amount of water specified in the agreement. The second alternative would be to defer the project until a larger, multi-agency multiple species habitat conservation plan could be developed. This alternative was rejected because delays in the construction of the 36-inch pipeline would not allow OWD to meet the aforementioned contractual water transfer requirements. The third alternative entails a different route for the southern portion of the alignment that would continue on Campo Road to the entrance of OWD's Regulatory Site and then head north along the Regulatory Site driveway, concluding at the reservoirs. This alternative would result in impacts to approximately 0.75 ac of coastal sage scrub located along the existing driveway to the Regulatory Site. This alternative was rejected because of excessively higher costs, negative traffic impacts, and negative effects to OWD operations at the Regulatory Site. Additionally, this alternative would not significantly reduce impacts to gnatcatcher-occupied coastal sage scrub from those associated with the proposed project (*i.e.*, 0.75 ac versus 0.95 ac). The proposed project would be more cost-effective, efficient, and timely.

We have made a preliminary determination that approval of the proposed HCP qualifies as a categorical exclusion under NEPA, as provided by the Department of the Interior Manual (516 DM 2, Appendix 1 and 516 DM 6, Appendix 1) and as a "low-effect" plan as defined by the Habitat Conservation Planning Handbook (November 1996). Determination of low-effect habitat conservation plans is based on the following three criteria:

(1) Implementation of the proposed HCP would result in minor or negligible effects on federally listed, proposed, and candidate species and their habitats;

(2) Implementation of the proposed HCP would result in minor or negligible effects on other environmental values or resources; and

(3) Impacts of the proposed HCP, considered together with the impacts of other past, present, and reasonably foreseeable similarly situated projects, would not result, over time, in cumulative effects to environmental values or resources that would be considered significant.

Based upon this preliminary determination, we do not intend to prepare further NEPA documentation. We will consider public comments in making the final determination on whether to prepare such additional documentation.

#### Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

#### Authority

We provide this notice pursuant to section 10(c) of the Act.

#### Next Steps

We will evaluate the permit application, the proposed HCP, and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the Act. If the requirements are met, we will issue a permit to OWD for the incidental take of the coastal California gnatcatcher associated with the construction, operation, and maintenance of the Jamacha Road 36-inch Pipeline (CIP P2009) in San Diego County, California.

Dated: August 21, 2009.

**Jim A. Bartel,**

*Field Supervisor, Carlsbad Fish and Wildlife Office, Carlsbad, California.*

[FR Doc. E9-20660 Filed 8-26-09; 8:45 am]

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## INTERNATIONAL TRADE COMMISSION

[Inv. No. 337-TA-683]

### In the Matter of Certain MLC Flash Memory Devices and Products Containing Same; Notice of Investigation

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Institution of investigation pursuant to 19 U.S.C. 1337.

**SUMMARY:** Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on July 27, 2009, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of BTG International

Inc. of West Conshohocken, Pennsylvania. A letter supplementing the complaint was filed on August 18, 2009. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain MLC flash memory devices and products containing same by reason of infringement of certain claims of U.S. Patent Nos. 5,394,362; 5,764,571; 5,872,735; 6,104,640; and 6,118,692. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue an exclusion order and a cease and desist order.

**ADDRESSES:** The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202-205-2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

**FOR FURTHER INFORMATION CONTACT:** Stephen R. Smith, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205-2746.

**Authority:** The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2009).

**Scope of Investigation:** Having considered the complaint, the U.S. International Trade Commission, on August 21, 2009, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation,

or the sale within the United States after importation of certain MLC flash memory devices or products containing same that infringe one or more of claim 1 of U.S. Patent No. 5,394,362; claims 1-47 of U.S. Patent No. 5,764,571; claims 29-42 of U.S. Patent No. 5,872,735; claims 1, 2, 5-8, 11-14, 17-21, 24-27, 29, 31-33, 35, 37, and 38 of U.S. Patent No. 6,104,640; and claims 43 and 64 of U.S. Patent No. 6,118,692; and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—BTG International Inc., Five Tower Bridge, Suite 800, 300 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2998.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Samsung Electronics Co., Ltd., 250, 2-ga, Taepyong-ro Jang-gu, Seoul 100-742, South Korea.

Samsung Electronics America, Inc., 105 Challenger Road, Ridgefield Park, New Jersey 07660.

Samsung Semiconductor, Inc., 3655 North First Street, San Jose, California 95134.

Samsung Telecommunications America, LLC, 1301 East Lookout Drive, Richardson, Texas 75082.

Apple, Inc., 1 Infinite Loop, Cupertino, California 95014.

ASUSTek Computer, Inc., 150 Li-Te Rd., Peitou, Taipei 112, Taiwan.

ASUS Computer International, 800 Corporate Way, Fremont, California 94539.

Dell, Inc., 1 Dell Way, Round Rock, Texas 78682-2222.

Lenovo Group Limited, 23rd Floor, Lincoln House, Taikoo Place, 979 King's Road, Quany Bay, Hong Kong.

Lenovo (United States) Inc., 1009 Think Place, Morrisville, North Carolina 27560.

PNY Technologies, Inc., 299 Webro Rd., Parsippany, New Jersey 07054-0218.

Research In Motion, Ltd., 295 Phillip Street, Waterloo, Ontario, Canada N2L 3W8.

Research in Motion Corporation, 122 West John Carpenter Parkway, Suite 430, Irving, Texas 75039.

Sony Corporation, 1-7-1, Konan, Minato-ku, Tokyo 108-0075, Japan.  
Sony Electronics, Inc., 16530 Via

Esprillo, San Diego, California 92127.

Transcend Information, Inc., No. 70, Xing Zhong Rd., NeiHu Dist., Taipei, Taiwan.

(c) The Commission investigative attorney, party to this investigation, is Stephen R. Smith, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Honorable Paul J. Luckern, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against a respondent.

Issued: August 24, 2009.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

**William R. Bishop,**

*Acting Secretary to the Commission.*

[FR Doc. E9-20692 Filed 8-26-09; 8:45 am]

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## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Under the Clean Air Act

Pursuant to 28 CFR 50.7, notice is hereby given that, on August 21, 2009, a proposed Consent Decree in *United*