

July 21, 2009

Subject: Categorical Exclusion for the Community of Tintown, City of Bisbee, Arizona

From: Elizabeth Borowiec *Elizabeth Borowiec*
Water Division, WTR-4

To: Laura Yoshii
Acting Regional Administrator, ORA

EPA Region 9, through the Border Environment Cooperation Commission (BECC), is proposing to provide Border Environment Infrastructure Funds (BEIF) to replace nonconforming on-site wastewater systems at 28 households within the community of Tintown, an area located within the city limits of Bisbee, Arizona.

We have conducted an environmental review of the proposed project in accordance with the National Environmental Policy Act (NEPA) under 40 CFR § 6.204(a)(1)(ii). Our analysis indicates that the proposed project will not have any significant impacts on the quality of the human environment and no extraordinary circumstances are involved in accordance with 40 CFR § 6.204(b)(1-10). Therefore, consistent with our NEPA regulations, we are forwarding a Categorical Exclusion for your signature.

If you have any questions, please call Elizabeth Borowiec at 972-3419.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

**75 Hawthorne Street
San Francisco, CA 94105-3901**

**OFFICE OF THE
REGIONAL ADMINISTRATOR**

**Categorical Exclusion for the Community of Tintown, within the City of Bisbee, Arizona
Construction of Wastewater Infrastructure**

Proposed Action

The U.S. Environmental Protection Agency (EPA) is considering authorization of a Border Environment Infrastructure Fund (BEIF) grant to the City of Bisbee, AZ for the installation of wastewater collection service in the Tintown subdivision, which currently lacks adequate wastewater treatment and disposal. Tintown is located near the geographical center of Bisbee, on State Route 92 in Cochise County. The proposed project will replace nonconforming on-site wastewater systems serving 28 households. Wastewater from Tintown will be collected and conveyed to the City of Bisbee's San Jose Wastewater Treatment Plant for treatment. In 2006, the San Jose Wastewater Treatment Plant was upgraded resulting in sufficient capacity to accommodate additional flows from Tintown. Completion of this project will help bring the City of Bisbee into compliance with state and federal regulatory requirements and will address the environmental and public health risks associated with inadequate collection, treatment and disposal of wastewater.

Justification of Categorical Exclusion

The proposed action is consistent with the class of Categorical Exclusion specified in 40 CFR § 6.204(a)(1)(ii) as it is directed toward "minor actions relating to an existing infrastructure system that involves minor upgrade or minor expansion of the system capacity." EPA has determined that the project will not have any significant impacts on the quality of the human environment and no extraordinary circumstances are involved in accordance with 40 CFR § 6.204 (b) (1-10). The laws, and analysis of the impacts of the proposed action, are described below:

National Natural Landmarks - The Secretary of the Interior is authorized to designate areas as Natural Landmarks for listing on the National Registry of Natural Landmarks pursuant to the Historic Act of 1935, 16 U.S. Code (USC) 461 *et seq.* No natural U.S. landmarks are within the project area or will be impacted by the proposed action.

Cultural Resources Data - The *Archeological and Historical Preservation Act* (AHPA) of 1974, 16 USC 469 *et seq.*, provides for the preservation of cultural resources from an EPA activity that may cause irreparable loss or destruction of significant scientific, prehistoric, or archeological data. The proposed project will not impact cultural resources since the project site is on properties where human disturbance has occurred since the early 20th century. In addition, due to

the presence of bedrock in the project area, the preferred method for collecting wastewater is through an above ground gravity system. As a result, no deep trenching will be required, thus further reducing the possibility of disturbance to cultural resources. Finally, because cultural resources have been identified immediately outside of the proposed project area, EPA, as a precaution, will modify an existing Memorandum of Agreement (MOA) between the EPA, the City of Bisbee, and the Arizona Historic Preservation Officer (SHPO) to address any potential impacts to eligible resources if identified.

Cultural Resources - The *National Historic Preservation Act* (NHPA), as amended, 16 U.S.C. 470, directs federal agencies to integrate historic preservation into all activities either directly or indirectly involving land use decisions. The NHPA is administered by the National Park Service (NPS), the Advisory Council on Historic Preservation (ACHP), State Historic Preservation Offices (SHPOs), and each federal agency. Implementing regulations include 36 CFR Part 800: *Regulations of the Advisory Council on Historic Preservation Governing the NHPA Section 106 Review Process*. Section 106 of the NHPA requires federal agencies to take into consideration the impact that an action may have on historic properties that are included on, or are eligible for inclusion on, the National Register of Historic Places. EPA has determined that this project has no potential to cause effects on historic properties. In addition, the above referenced MOA between the EPA, the City of Bisbee, and the SHPO also addresses potential impacts to cultural resources if discovered during construction.

Wetlands Protection - EO 11990, "Protection of Wetlands" of 1977, requires federal agencies conducting certain activities to avoid, to the extent possible, adverse impacts associated with the destruction or loss of wetlands and to avoid the support of new construction in wetlands, if a practicable alternative exists. Discharge of dredge or fill material into wetlands and other waters of the U.S. are also regulated under Section 404 of the Clean Water Act. No natural perennial surface waters or jurisdictional wetlands exist within the study area.

Floodplain Management - EO 11988, "Floodplain Management" of 1977, requires federal agencies to evaluate the potential effects of actions they may take in a floodplain to avoid, to the extent possible, any adverse effects associated with the direct and indirect development of a floodplain. Because of the mountainous topography, much of northern Bisbee is within the 100-year floodplain. Floodwaters from this area are collected through culverts and transmitted to detention areas within the City. The proposed project will not affect the floodplain since the existing topography of the area will remain unchanged. However, during construction, storm water flows will be controlled through best management practices identified in a Storm Water Pollution Prevention Plan to prevent the transport of sediment within the existing storm water collection system.

Important Farmland - *EPA Policy to Protect Environmentally Significant Agricultural Lands* requires EPA to consider and protect the nation's significant/important agricultural lands from irreversible conversion to uses that result in their loss as an environmental or essential food production resource. Moreover, the *Farmland Protection Policy Act* (FPPA), 7 USC 4201 *et*

seq., and the U. S. Department of Agriculture's (USDA) implementing procedures require federal agencies to evaluate the adverse effects of their actions on prime and unique farmland, including farmland of statewide and local importance. The proposed project does not involve conversion of, or would otherwise affect, prime, unique, or important farmland.

Wild and Scenic Rivers - The *Wild and Scenic Rivers Act* (WSRA), 16 USC 271 et seq., establishes requirements applicable to the water resource projects affecting wild, scenic, or recreational rivers within the National Wild and Scenic River System (NWSRS), as well as rivers designated on the National Rivers Inventory (NRI). The proposed project will not affect any wild, scenic, or recreational rivers within the NWSRS, or rivers designated on the NRI, since no natural perennial surface waters exist within the study area.

Fish and Wildlife Protection - The *Fish and Wildlife Coordination Act* (FWCA), 16 USC 661 et seq., requires federal agencies involved in actions that will result in the control or structural modification of any natural stream or body of water for any purpose, to take action to protect fish and wildlife resources that may be affected by the action. No streams or waterbodies will be structurally modified or controlled by the proposed action.

Endangered Species Protection - The *Endangered Species Act* (ESA), 16 USC 1536 et seq., prohibits agencies from jeopardizing threatened or endangered species or adversely modifying habitats essential to their survival. The project area consists of residential developments and existing structures such as culverts that have been in existence since the early 20th century. This has resulted in the destruction of habitat required to support such species. The likelihood of threatened or endangered species within the project area is extremely low.

Wilderness Protection - The *Wilderness Act* (WA), 16 USC 1131 et seq., established a system of National Wilderness Areas. The WA established a policy for protecting the system by generally prohibiting motorized equipment, structure, installation, roads, commercial enterprises, aircraft landings and mechanical transport. Although the City of Bisbee is surrounded by the mountainous habitat of the Mule Mountains and the Sonoran/Chihuahuan desert area, the project area contains no wilderness area only existing residential developments and commercial developments.

Air Quality - The *Clean Air Act* (CAA) requires federal actions to conform to the State Implementation Plan approved or promulgated under Section 110 of the Act. The City of Bisbee is an attainment area for all federal air quality standards. The prevailing winds, high altitude, and low population have each contributed positively to local air quality. Subsequently, the proposed action will not have a significant effect on air quality.

Environmental Justice - EO 12897, "Federal Action to Address Environmental Justice in Minority Populations and Low-Income Populations," and the accompanying Presidential Memorandum, advise federal agencies to identify and address, whenever feasible, disproportionately high and adverse human health or environmental effects on minority communities and/or low-income communities. The proposed project is not expected to Page

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disproportionately impact minority, elderly, or low-income populations in the area. The proposed project will not impact any distinct minority, ethnic, elderly, or disabled groups. The proposed project will not displace any residential or commercial structures.

Coastal Zone Management Act - The *Coastal Zone Management Act* (CZMA), 16 USC 1451 *et seq.*, requires that actions by federal agencies in coastal areas be consistent with approved State Coastal Zone Management Programs, to the maximum extent possible. If an EPA action may affect a coastal zone area, the responsible official is required to assess the impact of the action on the coastal zone. The proposed action will not affect a coastal zone.

Coastal Barrier Resources Act - The *Coastal Barrier Resources Act* (CBRA), 16 USC 3501 *et seq.*, generally prohibits new federal expenditures and financial assistance for development within the Coastal Barrier Resources System (CBRS) and therefore protects ecologically sensitive U.S. coastal barriers. The proposed action does not affect any coastal barriers.

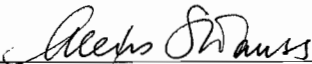
Cumulative Impacts

The proposed action, individually or in conjunction with past, present, or foreseeable future projects, will not have a significant adverse effect on the quality of the human environment.

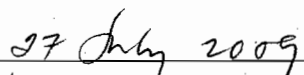
Finding

In accordance with 40 CFR Part 6, EPA has determined that the proposed project will not have a significant impact on the environment and that an Environmental Impact Statement or an Environmental Assessment will not be prepared for this project.

This Categorical Exclusion is final upon signature by the Regional Administrator. It will not be circulated for review but will be available to any individual upon request.



Laura Yoshii
EPA, Acting Regional Administrator



Date