



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY

Los Angeles District, Corps of Engineers
Regulatory Division, Carlsbad Field Office
6010 Hidden Valley Road, Suite 105
Carlsbad, CA 92011

July 24, 2012

Regulatory Division

April Heinze, Director
County of San Diego
Department of General Services
5560 Overland Avenue, Suite 410
San Diego, CA 92123

DEPARTMENT OF THE ARMY NATIONWIDE PERMIT VERIFICATION

Dear Ms. Heinze:

I am responding to your request (SPL-2008-01183-LLC) for a Department of the Army permit. Your proposed project, the San Diego County Women's Detention Facility Project (Project), would result in a discharge of dredged and/or fill material into waters of the United States (U.S.). Therefore, pursuant to section 404 of the Clean Water Act (33 U.S.C. 1344; 33 C.F.R. parts 323 and 330), your proposed project requires a Department of the Army permit. The Project is located along Cottonwood Avenue, north of Mission Gorge Road in the city of Santee, San Diego County, California (as shown on the attached Figures 1-3).

I have determined construction of the Project complies with Nationwide Permit (NWP) No. 39 (Commercial and Institutional Developments), if conducted as described in your application.

Specifically, you are authorized to conduct the following regulated activities:

1. Permanently impact no more than 0.03 acre (595 feet long by 2 feet wide) of ephemeral waters of the U.S. through the construction of inmate housing and drainage facilities associated with the expansion of the existing woman's detention facility.
2. Temporarily impact no more than 0.05 acre (625 linear feet) of ephemeral waters of the U.S. through increasing its sinuosity and width in association the restoration of this stream.

For this NWP 39 (Commercial and Institutional Developments) verification letter to be valid, you must comply with all of the terms and conditions in Enclosure 1. Furthermore, you must comply with the following non-discretionary Special Conditions listed below:

Pre-construction

1. The Permittee shall provide written notification to the Corps (by letter or e-mail) of the date of commencement of operations not less than **2 calendar days** prior to commencement of the activities authorized herein. The notification shall include the following:
 - a. Corps File Number (SPL-2008-01183-LLC);
 - b. Name of company performing work and onsite point of contact; and
 - c. Schedule for beginning and ending the project.
2. All correspondences submitted for compliance of the special conditions of this permit is required to contain the project name, “San Diego County Women’s Detention Facility Project,” and the Corps file number, 2008-01183-LLC, to be accepted.
3. The Permittee shall clearly mark the limits of the workspace with flagging or similar means to ensure mechanized equipment does not enter preserved waters of the U.S. and riparian wetland/habitat areas shown on Figure 5. Adverse impacts to waters of the U.S. beyond the Corps-approved construction footprint are not authorized. Such impacts could result in permit suspension and revocation, administrative, civil or criminal penalties, and/or substantial, additional, compensatory mitigation requirements.

Endangered Species Act:

4. This Corps permit does not authorize you to take any threatened or endangered species, in particular the Least Bell’s vireo (*Vireo bellii pusillus*). In order to legally take a listed species, you must have separate authorization under the Endangered Species Act (ESA) (e.g. ESA Section 10 permit, or a Biological Opinion (BO) under ESA Section 7, with "incidental take" provisions with which you must comply). Pursuant to the FWS correspondence dated May 23, 2012, including the required avoidance and minimization measures, the Corps Regulatory Division has determined and the FWS has concurred that your activity is not likely to adversely affect the above species. Your authorization under this Corps permit is conditional upon your compliance with all of the required avoidance and minimization measures, which are incorporated by reference in this permit. Failure to comply with the required avoidance and minimization measures would constitute non-compliance with your Corps permit.

Cultural Resources:

5. Pursuant to 36 C.F.R. section 800.13, in the event of any discoveries during construction of either human remains, archeological deposits, or any other type of historic property, the Permittee shall notify Lanika Cervantes at 760-602-4836 and the Corps' Archeology Staff within 24 hours (Steve Dibble at 213-452-3849 or John Killeen at 213-452-3861). The Permittee shall immediately suspend all work in any area(s) where potential cultural resources are discovered. The Permittee shall not resume construction in the area surrounding the potential cultural resources until the Corps Regulatory Division re-authorizes project construction, per 36 C.F.R. section 800.13.
6. The Permittee shall have a qualified Archaeologist present on-site during all earth-moving activities. The Archeologist will have the power to halt earth-moving activities if archaeological material is encountered and the Permittee shall notify the Corps as outlined in Special Condition 5.

Construction

7. The Permittee shall restore and enhance Tributary A1 in accordance to the report entitled, "Jurisdictional Waters Mitigation Plan", dated March 28, 2012, prepared by HELIX Environmental Planning, Inc.

8. Discharges of concentrated flow during construction or after completion must not cause downstream erosion or damage to properties or stream habitat. The Permittee shall monitor downstream erosion after each rain event during the construction of the authorized project.

9. Water containing mud, silt, or other pollutants from equipment washing or other activities, must not be discharged to waters of the U.S. or placed in locations that may be subjected to storm flows. Pollutants discharged to areas within a stream diversion area must be removed at the end of each workday or sooner if rain is predicted.

10. All surface waters, including ponded waters, must be diverted away from areas undergoing grading, construction, excavation, vegetation removal, and/or any other activity which may result in a discharge to the receiving water. Diversion activities must not result in the degradation of beneficial uses or exceedance of water quality objectives of the receiving waters.

11. Substances hazardous to aquatic life including, but not limited to, petroleum products. Raw cement/concrete, asphalt, and coating materials, must be prevented from contaminating the soil and/or entering waters of the U.S. Best Management Practices (BMPs) must be implemented to prevent such discharges during each project activity involving hazardous materials.

12. The Permittee shall submit memorandums to the Corps each month during the construction phase of the project demonstrating compliance with Special Conditions 8 through 11 and a final summary in the post-construction report as described in Special Condition No. 14.

Post-Construction

13. The Permittee shall sign and submit to the Corps, within **5 days** of completion of authorized activities, the attached certification of compliance.

14. Within **45 calendar days** of completion of authorized work in waters of the U.S., the Permittee shall submit to the Corps Regulatory Division a post-project implementation memo indicating the date authorized impacts to waters of the U.S. ceased. In addition the following items shall also be included:

- a. Dated and labeled photographs of waters of the U.S. that are impacted and those to be preserved (including latitude and longitude coordinates; pictures during and after impacts),
- b. A summary of all project activities, which documents that authorized waters of the U.S. impacts were not exceeded and describes how you complied with each of the special conditions outlined in this permit (including any noncompliance that previously occurred or is currently occurring, and corrective actions taken to achieve compliance).

Your verification is valid through July 23, 2014. All NWP's will expire on March 18, 2017. It is incumbent upon you to remain informed of changes to the NWP's. A public notice of the change(s) will be issued when any of the NWP's are modified, reissued, or revoked. Furthermore, if you commence or are under contract to commence this activity before the date on which the relevant NWP is reissued, modified, or revoked, you will have twelve (12) months from the date of the reissuance, modification, or revocation of the NWP to complete the activity under the present terms and conditions of the relevant NWP.

A preliminary jurisdictional determination (JD) has been conducted to determine the extent of U.S. Army Corps of Engineers (Corps) geographic jurisdiction, upon which this NWP verification is based. A preliminary JD is advisory in nature and is a written indication that Corps geographic jurisdiction may be present on a particular site, but is not appealable. An approved JD is an official Corps determination of the precisely identified limits of Corps geographic jurisdiction on a particular site, and is appealable. Should you wish to appeal an approved JD, you may request an administrative appeal under Corps regulations at 33 C.F.R. part 331. Please refer to the enclosed Notification of Appeal Process (NAP) fact sheet and Request for Appeal (RFA) form for more information.

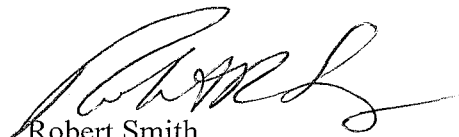
A NWP does not grant any property rights or exclusive privileges. Additionally, it does not authorize any injury to the property, rights of others, nor does it authorize interference with any existing or proposed Federal project. Furthermore, it does not obviate the need to obtain other Federal, state, or local authorizations required by law.

Thank you for participating in our regulatory program. If you have any questions, please contact Lanika Cervantes at 760-602-4838 or via e-mail at Lanika.L.Cervantes@usace.army.mil.

Please be advised that you can now comment on your experience with Regulatory Division by accessing the Corps web-based customer survey form at:
<http://per2.nwp.usace.army.mil/survey.html>.

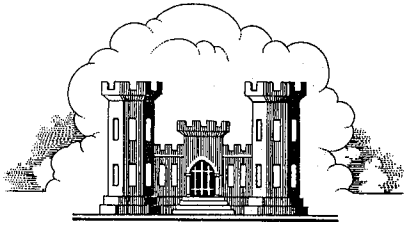
"Building Strong and Taking Care of People!"

Sincerely,



Robert Smith
Senior Project Manager
South Coast Branch

Enclosure 1: NWP 39 General Conditions



**LOS ANGELES DISTRICT
U.S. ARMY CORPS OF ENGINEERS**

**CERTIFICATE OF COMPLIANCE WITH
DEPARTMENT OF THE ARMY NATIONWIDE PERMIT**

Permit Number: *SPL-2008-01183-LLC*

Name of Permittee: *April Heinze, County of San Diego*

Date of Issuance: *July 24, 2012*

Date of Expiration: *July 24, 2014*

Upon completion of the activity authorized by this permit and the mitigation required by this permit, sign this certificate, and return it to the following address:

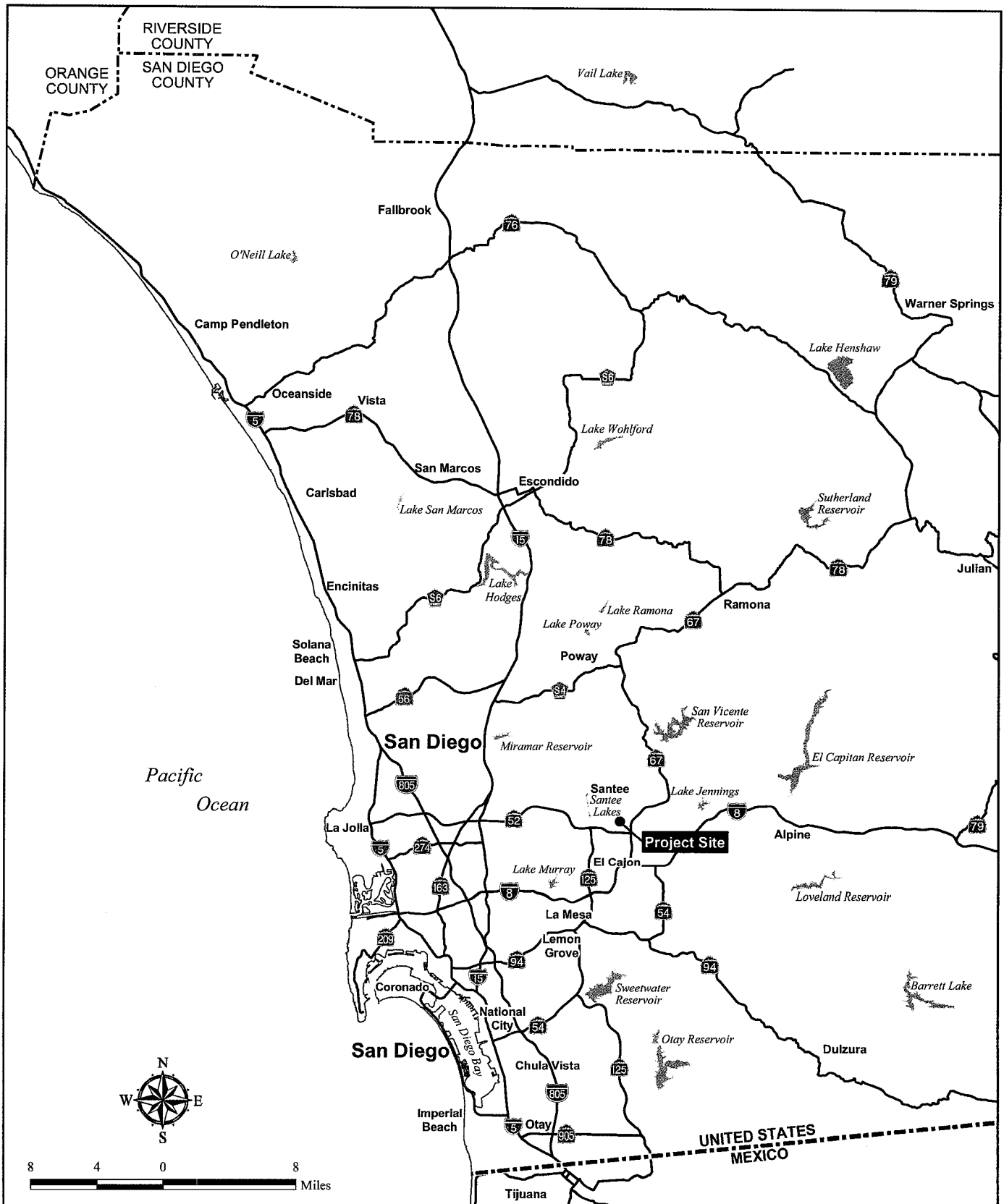
U.S. Army Corps of Engineers, Los Angeles District
Regulatory Division
ATTN: CESPL-RG-SPL-2008-01183-LLC
Regulatory Division, Carlsbad Field Office
6010 Hidden Valley Road, Suite 105
Carlsbad, CA 92011

Please note that your permitted activity is subject to a compliance inspection by an Army Corps of Engineers representative. If you fail to comply with this Nationwide Permit, you may be subject to permit suspension, modification, or revocation procedures as contained in 33 C.F.R. § 330.5 or enforcement procedures such as those contained in 33 C.F.R. §§ 326.4 and 326.5.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of the said permit, and required mitigation was completed in accordance with the permit condition(s).

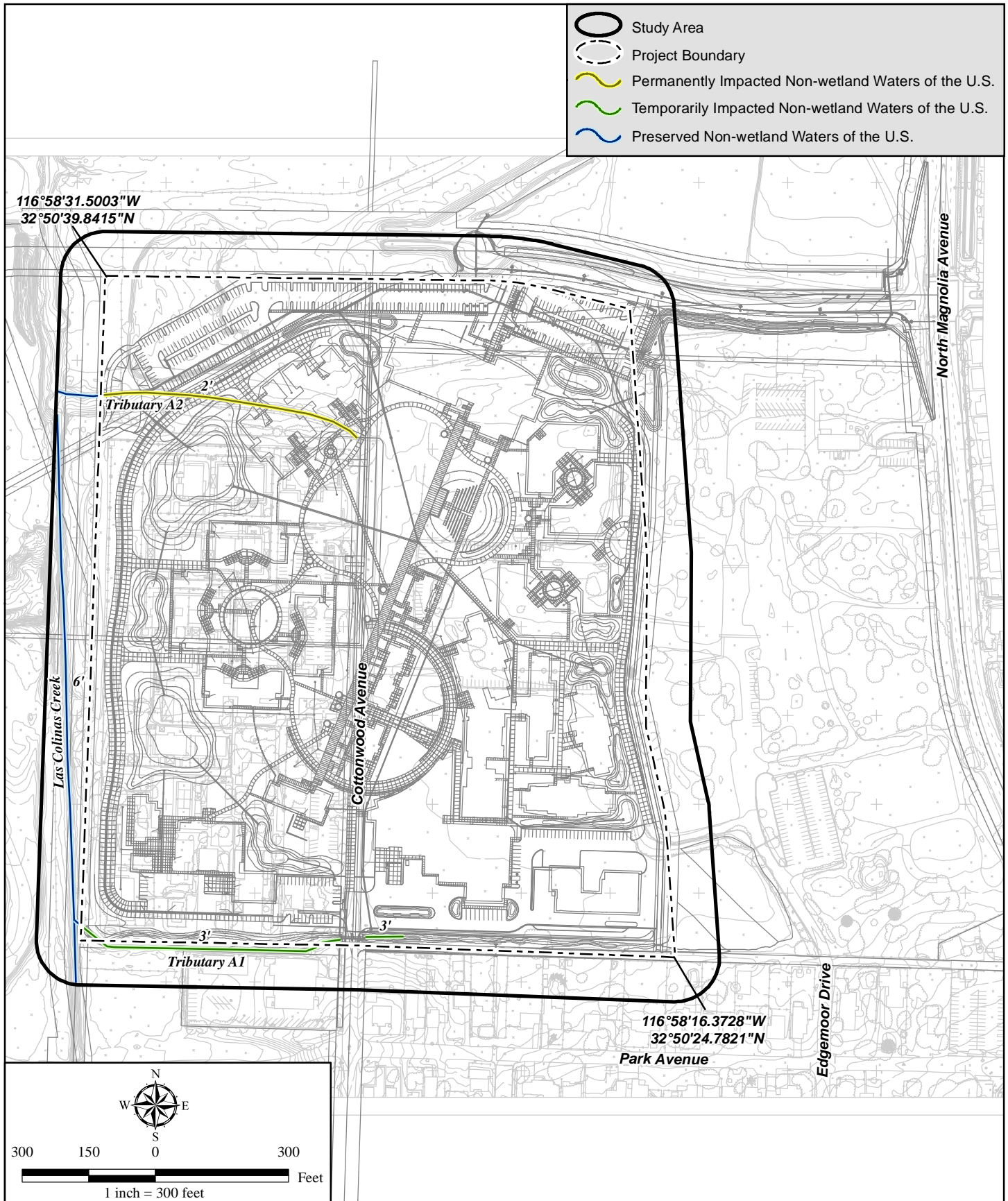
Signature of Permittee

Date



Regional Location Map

SAN DIEGO COUNTY WOMEN'S DETENTION FACILITY



E:\ArcGIS\B\BAL-01 SDCWDF\Map\BIO\Misc\Fig5_CorpsImpacts_071712.mxd -JP

Corps Jurisdictional Areas/Impacts

SAN DIEGO COUNTY WOMEN'S DETENTION FACILITY

PRELIMINARY JURISDICTIONAL DETERMINATION FORM

This preliminary JD finds that there "may be" waters of the United States on the subject project site, and identifies aquatic features on the site that could be affected by the proposed activity, based on the following information:

District Office	Los Angeles District	File/ORM #	SPL-2008-1183	PJD Date:	March 14, 2012
State	CA	City/County	Santee, San Diego	Name/Address of Person Requesting PJD	Stacy Nigro HELIX Environmental Planning, Inc.
Nearest Waterbody:	Las Colinas Channel and San Diego River				PROJECT NAME: San Diego County Women's Detention Facility
Location: TRS, LatLong or UTM:	32°50'32.179"N 116°58'24.4512"W				Preparer's Tracking No.: BAL-01
Identify (Estimate) Amount of Waters in the Review Area:			Name of Any Water Bodies on the Site Identified as Section 10 Waters:		
Non-Wetland Waters:			Tidal: N/A		
Stream Flow:			Non-Tidal: N/A		
linear ft width 0.26 acres Ephemeral					
Wetlands: 0 acre(s) Cowardin Class: N/A			Date of Field Trip:		
			<input type="checkbox"/> Office (Desk) Determination <input type="checkbox"/> Field Determination:		

SUPPORTING DATA: Data reviewed for preliminary JD (check all that apply - checked items should be included in case file and, where checked and requested, appropriately reference sources below):

- ☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: Dudek delineation results, HELIX PCN application
- ☐ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
 - ☐ Office concurs with data sheets/delineation report.
 - ☐ Office does not concur with data sheets/delineation report.
- ☐ Data sheets prepared by the Corps
- ☐ Corps navigable waters' study: [redacted]
- ☐ U.S. Geological Survey Hydrologic Atlas:
 - ☐ USGS NHD data.
 - ☐ USGS 8 and 12 digit HUC maps.
- ☒ U.S. Geological Survey map(s). Cite quad name: El Cajon
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: Bowman 1973
- ☐ National wetlands inventory map(s). Cite name: [redacted]
- ☐ State/Local wetland inventory map(s): [redacted]
- ☐ FEMA/FIRM maps: [redacted]
- ☐ 100-year Floodplain Elevation is: [redacted]
- ☒ Photographs: ☒ Aerial (Name & Date): Eagle Aerial 2009
 - ☐ Other (Name & Date): [redacted]
- ☐ Previous determination(s). File no. and date of response letter: [redacted]
- ☐ Other information (please specify): [redacted]

IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.

Signature and Date of Regulatory Project Manager
(REQUIRED)

Signature and Date of Person Requesting Preliminary JD
(REQUIRED, unless obtaining the signature is impracticable)

EXPLANATION OF PRELIMINARY AND APPROVED JURISDICTIONAL DETERMINATIONS:

1. The Corps of Engineers believes that there may be jurisdictional waters of the United States on the subject site, and the permit applicant or other affected party who requested this preliminary JD is hereby advised of his or her option to request and obtain an approved jurisdictional determination (JD) for that site. Nevertheless, the permit applicant or other person who requested this preliminary JD has declined to exercise the option to obtain an approved JD in this instance and at this time.

2. In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "preconstruction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an approved JD for the activity, the permit applicant is hereby made aware of the following: (1) the permit applicant has elected to seek a permit authorization based on a preliminary JD, which does not make an official determination of jurisdictional waters; (2) that the applicant has the option to request an approved JD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an approved JD could possibly result in less regulatory mitigation being required or different special conditions; (3) that the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or general permit authorization; (4) that the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) that undertaking any activity in reliance upon the subject permit authorization without requesting an approved JD constitutes the applicant's acceptance of the use of the preliminary JD, but that either form of JD will be processed as soon as is practicable; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a preliminary JD constitutes agreement that all wetlands and other water bodies on the site affected in any way by that activity are jurisdictional waters of the United States, and precludes any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an approved JD or a preliminary JD, that JD will be processed as soon as is practicable. Further, an approved JD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331, and that in any administrative appeal, jurisdictional issues can be raised (see 33 C.F.R. 331.5(a)(2)). If, during that administrative appeal, it becomes necessary to make an official determination whether CWA jurisdiction exists over a site, or to provide an official delineation of jurisdictional waters on the site, the Corps will provide an approved JD to accomplish that result, as soon as is practicable.

PRELIMINARY JURISDICTIONAL DETERMINATION FORM

This preliminary JD finds that there "may be" waters of the United States on the subject project site, and identifies all aquatic features on the site that could be affected by the proposed activity, based on the following information:

Appendix A - Sites

District Office File/ORM # PJD Date:
State City/County Person Requesting PJD

Site Number	Latitude	Longitude	Cowardin Class	Est. Amount of Aquatic Resource in Review Area	Class of Aquatic Resource
A1	32°50'24.86"N	116°58'29.07"W	Riverine	0.05 acre	Non-Section 10 non-wetland
A2	32°50'37.00"N	116°58'28.45"W	Riverine	0.03 acre	Non-Section 10 non-wetland
Coli Ck	32°50'33.11"N	116°58'32.53"W	Riverine	0.18 acre	Non-Section 10 non-wetland

Notes:

The study area supports a total of 0.26 acre of waters of the U.S., consisting entirely of ephemeral non-wetland waters (Figure 4). Portions of two unnamed tributaries (Tributaries A1 and A2) occur in the study area, totaling 0.08 acre. Both tributaries connect offsite to Las Colinas Creek, which parallels the site's western boundary and conveys flows north to an impounded portion of the San Diego River. Tributary A1 is located along the southern boundary of the project site, while Tributary A2 is located in the northwestern portion of the site.

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: U.S. Gypsum Company; Lonnie Dyck		File Number: SPL-2008-01183	Date: 07/23/2012
Attached is:			See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A	
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B	
	PERMIT DENIAL	C	
	APPROVED JURISDICTIONAL DETERMINATION	D	
X	PRELIMINARY JURISDICTIONAL DETERMINATION	E	

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at http://www.usace.army.mil/cecw/pages/reg_materials.aspx or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

If you only have questions regarding the appeal process you may also contact:

Thomas J. Cavanaugh
Administrative Appeal Review Officer,
U.S. Army Corps of Engineers
South Pacific Division
1455 Market Street, 2052B
San Francisco, California 94103-1399
Phone: (415) 503-6574 Fax: (415) 503-6646
Email: thomas.j.cavanaugh@usace.army.mil

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.

Date:

Telephone number: