



REPLY TO  
ATTENTION OF

**DEPARTMENT OF THE ARMY**

CORPS OF ENGINEERS LOS ANGELES DISTRICT  
REGULATORY DIVISION, CARLSBAD FIELD OFFICE  
5900 LA PLACE COURT, SUITE 100  
CARLSBAD, CALIFORNIA 92008

May 6, 2013

Regulatory Division

Mr. Thomas Duffy  
County of San Diego  
Department of Public Works, ESU  
5555 Overland Avenue, Suite 2188  
San Diego, California 92133-1295

**DEPARTMENT OF THE ARMY NATIONWIDE PERMIT VERIFICATION**

Dear Mr. Duffy:

I am responding to your request (SPL-2009-00026-MBS) dated February 25, 2013, for a Department of the Army (DA) permit. Your proposed project, Woodside Avenue Drainage Improvement Project, would result in a discharge of dredged 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 DA permit. Woodside Avenue Drainage Improvement Project is located parallel to and under Woodside Avenue, between Winter Gardens Boulevard and Riverview Avenue, in the unincorporated community of Lakeside, San Diego County, California (Latitude 33.03399°N, Longitude -116.73477°W), as shown in the attached figures.

I have determined construction of Woodside Avenue Drainage Improvement Project complies with Nationwide Permit (NWP) No. 43, Stormwater Management Facilities, if conducted as described in your application.

Specifically, and as shown on the attached figures, you are authorized to conduct the following regulated activities:

- Approximately 1,800 linear feet of existing, partially underground storm water drainage system parallel to Woodside Avenue will be replaced with an upgraded underground drainage system and construction of two 14-foot by 15-foot box culverts that transport water under State Route 67 for a distance of approximately 340-feet;
- Approximately 0.23 acre of freshwater marsh wetland waters and 0.01 acre of non-wetland waters of the U.S. will be permanently impacted and 0.51 acre of freshwater marsh wetland waters and 0.02 acre of non-wetland waters of the U.S. will be

temporarily impacted as a result of construction activities associated with the Woodside Avenue drainage improvements; and

- Surface and groundwater dewatering activities will be conducted to accommodate construction activities.

For this NWP 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. Prior to initiation of grading and project construction the Permittee shall provide written notification to the U.S. Army Corps of Engineers (Corps). The notification shall include the following:
  - a. Corps File Number (SPL-2009-00026-MBS);
  - b. Name of company performing the work and on-site point of contact and their contact information;
  - c. Size and type of equipment performing the work; and
  - d. Schedule for beginning and ending the project.
2. At least 60 days prior to initiating construction in waters of the U.S., including wetlands, the Permittee shall submit to the Corps one set of final detailed grading/construction plans showing Corps authorized work and structures in waters of the U.S. No work in waters of the U.S. is authorized until the Permittee receives, in writing (by letter or e-mail), Corps Regulatory Division approval of the final detailed grading/construction plans.
3. The Permittee shall clearly mark the limits of the workspace with flagging or similar means to ensure mechanized equipment does not enter avoided waters of the U.S., as shown in Figure 3. 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.
4. Prior to initiating construction in waters of the U.S., the Permittee shall submit to the Corps a final mitigation plan prepared in accordance with the Corps' Los Angeles District Mitigation Guidelines and Monitoring Requirements, dated April 19, 2004, and the Mitigation Rule (33 C.F.R. Part 332; 73 FR 19670-19687 (April 10, 2008)). The final mitigation plan shall address the 0.24 acre of permanent impact to waters of the U.S. through rehabilitation of 0.48 acre of waters of the U.S. and enhancement of 2.60 acres of adjacent riparian floodplain as shown on the enclosed figures (Figures 4-6). All maps and drawings shall be in compliance with the Final Map and Drawing Standards for the South Pacific Division Regulatory Program dated August 6, 2012 (<http://www.spd.usace.army.mil/Portals/13/docs/regulatory/standards/map.pdf>). No work in waters of the U.S. is authorized until the Permittee receives, in writing (by letter or e-mail),

Corps approval of the final mitigation plan. The Permittee shall complete site preparation and planting and initiate monitoring as described in the final, approved mitigation plan concurrently with impacts to waters of the U.S. Your responsibility to complete the required compensatory mitigation as set forth in this Special Condition will not be considered fulfilled until you have demonstrated compensatory mitigation project success and have received written verification of that success from the Corps.

5. GIS DATA: Within 60 days following written Corps approval of the mitigation plan, you shall provide to this office GIS data (polygons only) depicting the boundaries of all compensatory mitigation sites, as authorized in the final mitigation plan referenced above. All GIS data and associated metadata shall be provided on a digital medium (CD or DVD) or via file transfer protocol (FTP), preferably using the Environmental Systems Research Institute (ESRI) shapefile format. GIS data for mitigation sites shall conform to the Mitigation\_SPD.xlsx data table, as specified in the Final Map and Drawing Standards for the South Pacific Division Regulatory Program dated August 6, 2012 (<http://www.spd.usace.army.mil/Portals/13/docs/regulatory/standards/map.pdf>), and shall include a text file of metadata, including datum, projection, and mapper contact information.

#### ***Construction***

6. No debris, soil, silt, sand, sawdust, rubbish, cement or concrete washings thereof, oil or petroleum products, from construction shall be allowed to enter into or placed where it may be washed by rainfall or runoff into waters of the U.S. Therefore, the Permittee shall employ all Best Management Practices necessary to ensure that toxic materials, silt, debris, or excessive erosion do not enter waters of the U.S. during project construction. Upon completion of the activities authorized by this permit, any excess material or debris shall be removed from the work area and disposed of in an appropriate upland site.

#### ***Cultural Resources***

7. 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 Corps' Archeology Staff within 24 hours (Steve Dibble at 213-452-3849 or John Killeen at 213-452-3861) and Corps Project Manager (Meris Bantilan-Smith at 760-602-4836). 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.

#### ***Section 401 Certification***

8. The Permittee shall ensure that water quality is maintained by incorporating the terms and conditions of the Section 401 Water Quality Certification issued by the San Diego Regional Water Quality Control Board (Certification Number 10C-114) for your project, dated October 28, 2011, and amended April 29, 2013. You must comply with the conditions specified in the Certification as special conditions to this permit.

### ***Post-Construction***

9. No later than one month following completion of authorized work in waters of the U.S., the Permittee shall ensure all sites within waters of the U.S. subject to authorized, temporary impacts are restored to pre-project alignments, elevation contours, and conditions to the maximum extent practicable to ensure expeditious resumption of aquatic resource functions. No later than 60 calendar days following completion of authorized work in waters of the U.S., the Permittee shall submit a memorandum documenting compliance with this special condition.
10. Within 60 calendar days of completion of authorized work in waters of the U.S., the Permittee shall submit to the Corps a post-project implementation memo indicating the date authorized impacts to waters of the U.S. ceased and submit the following information:
  - a. As-built construction impact drawings with a map of an aerial overlay of waters of the U.S. and with topographic lines;
  - b. Dated and labeled photographs of waters of the U.S. that were permanently and temporarily impacted (including latitude and longitude coordinates);
  - c. Documentation of temporary impact restoration; and
  - d. A completed Certification of Compliance Form (included as part of this verification).

### ***Mitigation***

11. The Permittee has proposed to mitigate for impacts to waters of the U. S., through implementation of the draft, conceptual, mitigation plan: *Conceptual Off-site Wetland Mitigation Plan, Woodside Avenue Flood Control Project, Lakeside, San Diego County, California* (dated April 2013, and prepared by County of San Diego, Department of Public Works). According to the draft mitigation plan, responsible parties would be as follows: a) Implementation: San Diego County; b) Performance: San Diego County; and c) Long-term management: San Diego County. The Permittee retains ultimate legal responsibility for meeting the requirements of the final mitigation plan. Detailed mitigation objectives, performance standards, and monitoring requirements are described in the above draft mitigation plan. Any requirements for financial assurances and/or long-term management provisions are also described in the above draft mitigation plan.
12. The Permittee shall preserve, protect, and maintain in perpetuity up to the off-site mitigation areas referred to as Site 1 and Site 2, also known as the Lawrence and Barbara Daley Preserve Wetland Mitigation Site in San Diego County, California (Figure 4). Concurrently with work in waters of the U.S., the Permittee shall provide to the Corps Regulatory Division a copy of the *County of San Diego Department of Parks and Recreation Mitigation Program Certificate* (Mitigation Certificate), in a form approved by the Corps Regulatory Division. Additionally, the Permittee shall provide monies in the form of an endowment as identified on the Mitigation Certificate in an amount to be determined by a Property Analysis Record or similar methodology for the purposes of fulfilling the County of San Diego Department of Parks and Recreation's responsibilities

under the Mitigation Certificate, mitigation plan, and the long-term management of the Lawrence and Barbara Daley Preserve Wetland Mitigation Sites. The Mitigation Certificate shall preclude the establishment of fuel modification zones, public trails, drainage facilities, walls, maintenance access roads, and/or future easements. Further, to the extent practicable, any such facilities outside the preservation site identified shall be sited to minimize indirect impacts on the preservation area.

13. Within 60 calendar days of complete installation of all mitigation, the Permittee shall submit to the Corps Regulatory Division two copies of a memo indicating the following:
  - a. Date(s) all mitigation was installed and monitoring was initiated;
  - b. Schedule for future mitigation monitoring, implementation and reporting pursuant to final Corps-approved mitigation plan;
  - c. Color photographs taken at the mitigation site before and after mitigation site construction;
  - d. One copy of "as built" drawings of the mitigation site (all sheets must be signed, dated, to-scale, and no larger than 11 x 17 inches); and
  - e. If any deviations have occurred, you shall submit as-built GIS data (polygons only) accompanied by a narrative description listing and explaining each deviation..

Your verification is valid through March 18, 2017. 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 Corps geographic jurisdiction, upon which this NWP verification is based. A preliminary JD is advisory in nature and is a written indication 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 previously mailed 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 Meris Bantilan-Smith at 760-602-4836 or via e-mail at Meris.Bantilan-Smith@usace.army.mil.

Please be advised 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!"***

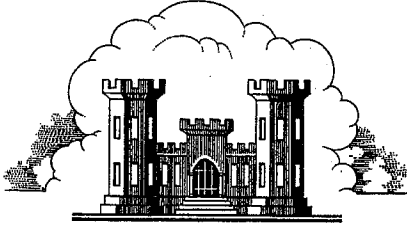
Sincerely,

A handwritten signature in cursive script that reads "Therese O Bradford".

Therese O. Bradford  
Chief, South Coast Branch

Enclosures

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

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

**Permit Number:** *SPL-2009-00026-MBS*

**Name of Permittee:** *Mr. Thomas Duffy, County of San Diego*

**Date of Issuance:** *May 6, 2013*

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, Carlsbad Field Office  
ATTN: CESPL-RG-SPL-2009-00026-MBS  
5900 La Place Court, Suite 100  
Carlsbad, California 92008

Please note 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 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