



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY

Los Angeles District Corps of Engineers
LOS ANGELES DISTRICT CORPS OF ENGINEERS
P.O. BOX 532711
LOS ANGELES, CALIFORNIA 90053-2325

March 15, 2013

Regulatory Division

Annesley Ignatius
San Bernardino Department of Public Works
Environmental Management Division, 825 East Third Street
San Bernardino, California 92415-0835

DEPARTMENT OF THE ARMY NATIONWIDE PERMIT VERIFICATION

Dear Mr. Ignatius:

I am responding to your request (SPL-2010-00488-GS) for a Department of the Army permit. Your proposed project, the San Timoteo Creek Reach 3B Flood Control Maintenance project, would result in a discharge of fill material into waters of the United States. 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 near the city of Loma Linda, San Bernardino County, California (as shown on the attached maps).

I have determined construction of the San Timoteo Creek Reach 3B Flood Control Maintenance project complies with Nationwide Permit (NWP) No. 31: *Maintenance of Existing Flood Control Facilities*, if conducted as described in your application.

Specifically, and as shown on the attached maps, you are authorized to conduct the following regulated activities: Discharge fill material within an approximately 109 acre area of San Timoteo Creek as necessary to maintain a portion of an existing flood control facility (San Timoteo Creek Reach 3B Flood Control Channel), as specified in the authorized maintenance baseline as shown on the "As Built Drawing" (Santa Ana River Mainstem San Bernardino County, California, San Timoteo Creek-Reach 3B (2), Channel and Sediment Basin Improvements, Barton Road to Alessandro Road, stamped June 2002). The authorized maintenance baseline extends approximately 20560 linear feet upstream from the intersection of the San Timoteo Creek and Barton Road, and is comprised of:

- a. 1400 linear feet of trapezoidal concrete channel from Station 192+00 to Station 206+00;
- b. 11720 linear feet of 18 sediment basins from 206+00 to Station 323+20;
- c. 5565 linear feet of 20 feet wide low flow channel from Station 323+20 to Station 378+85, which is comprised of natural river bed and bank; channel; and
- d. 1875 linear feet of 40 feet wide low flow channel from Station 378+85 to the terminus, at Station 397+60, which is comprised of natural river bed and bank.

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:

1. This Corps permit does not authorize you to take any threatened or endangered species, in particular the Southwestern Willow Flycatcher (*Empidonax traillii extimus*), Coastal California Gnatcatcher (*Poliophtila californica californica*), San Bernardino Kangaroo Rat (*Dipodomys merriami parvus*), and the Least Bell's Vireo (*Vireo bellii pusillus*) or adversely modify its designated critical habitat. 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). The enclosed FWS BO (FWS-SB-740.4) contains mandatory terms and conditions to implement the reasonable and prudent measures that are associated with "incidental take" that is also specified in the BO. Your authorization under this Corps permit is conditional upon your compliance with all of the mandatory terms and conditions associated with incidental take of the attached BO, which terms and conditions are incorporated by reference in this permit. Failure to comply with the terms and conditions associated with incidental take of the BO, where a take of the listed species occurs, would constitute an unauthorized take, and it would also constitute non-compliance with your Corps permit. The FWS is the appropriate authority to determine compliance with the terms and conditions of its BO and with the ESA.

2. 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 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.

Your verification is valid through March 18, 2017. All NWPs will expire on March 18, 2017. It is incumbent upon you to remain informed of changes to the NWPs. A public notice of the change(s) will be issued when any of the NWPs 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 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 Shannon Pankratz at 213-452-3412 or via e-mail at Shannon.L.Pankratz@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!”

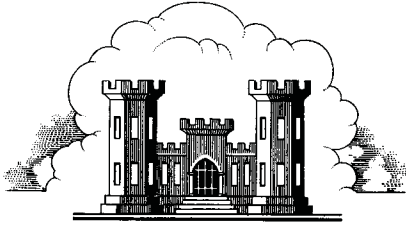
Sincerely,

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Digitally signed by
FARRAR.CORICE.JEAN.1251907028
DN: c=US, o=U.S. Government,
ou=DoD, ou=PKI, ou=USA,
cn=FARRAR.CORICE.JEAN.1251907028
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Corice Farrar
Chief, Orange and Riverside Section
South Coast Branch
Regulatory Division

Enclosure(s)



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

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

Permit Number: *SPL-2010-00488-GS*

Name of Permittee: *Annesley Ignatius, San Bernardino Department of Public Works*

Date of Issuance: *March 15, 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
ATTN: CESPL-RG-SPL-2010-00488-GS
LOS ANGELES DISTRICT CORPS OF ENGINEERS
P.O. BOX 532711
LOS ANGELES, CALIFORNIA 90053-2325

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