



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
US ARMY CORPS OF ENGINEERS  
P.O. BOX 532711  
LOS ANGELES, CALIFORNIA 90053-2325

September 3, 2013

Regulatory Division

Jason Yeung, Maintenance Engineering  
California Department of Transportation, District 12  
Attention: Kedest Ketsela  
3347 Michelson Dr., Suite 100  
Irvine, CA 92612

**DEPARTMENT OF THE ARMY NATIONWIDE PERMIT VERIFICATION**

Dear Mr. Yeung:

I am responding to your request (SPL-2011-00257-SCH) for a Department of the Army permit. Your proposed project, State Route 74 (SR-74) Rock Slope Protection project, is located at postmile 6.2 along SR-74, near the City of San Juan Capistrano, Orange County, California (33.518471° N, -117.56192° W).

This project would result in a discharge of dredged and/or 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.

I have determined construction of your proposed project would comply with Nationwide Permit (NWP) No.14, Linear Transportation Projects, if constructed as described in your application.

Specifically, and as shown on the attached drawing(s)/map(s), you are authorized to conduct the following regulated activities:

1. Discharge 0.0004-acre of permanent fill, to construct an 18-square foot headwall; and;
2. Discharge 0.0105-acre of permanent fill, to place 30 cubic yards of half-ton rock at the end of the proposed headwall.

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 non-discretionary Special Conditions listed below:

1. The permittee shall ensure that all vehicle maintenance, staging, storage, and dispensing of fuel occurs in designated upland areas. The permittee shall ensure that these designated upland areas are located in such a manner to prevent any runoff from entering waters of the U.S.
2. The permittee shall employ all best management practices (BMPs) to ensure that no debris, soil, silt, sand, rubbish, cement or concrete washings thereof, oil or petroleum can be washed by

rainfall or runoff into waterways. When project operations are completed, any and all excess construction material, debris, and or other associated excess project materials shall be removed and if not recycled or reused, disposed of at an appropriate off-site location outside of any jurisdictional area.

3. A copy of the permit shall be on the job site at all times during construction. The permittee shall provide a copy of this permit to all contractors, subcontractors, and forepersons. The permittee shall require that all contractors and forepersons read this authorization in its entirety and acknowledge they understand its contents and their responsibility to ensure compliance with all general and special conditions contained herein.

4. Temporary fills, authorized under Corps File No. SPL-2010-00277-SCH, dated March 24, 2010, were left in place to construct the proposed project. All temporary fill shall be removed and the area shall be restored to pre-construction conditions. Upon completion of the project, the Permittee shall hydroseed the disturbed portions of the earthen stream banks with native non-invasive vegetation of facultative upland (FACU) or wetter species, as appropriate. The Permittee shall submit the proposed planting palette for review and approval by the Corps, prior to initiation of construction. The Permittee shall ensure the hydroseeded areas are maintained and monitored for a period of two years after completing the seeding activities, such that less than 10 percent of the areas disturbed by the project are vegetated by non-natives and invasive plant species. Monitoring reports shall be submitted by the Permittee to the Corps, by May 15<sup>th</sup> annually, one and two years following hydroseeding, documenting the recovery of the restored areas.

#### **Endangered Species Act:**

5. This Corps permit does not authorize you to take any threatened or endangered species, in particular the federally endangered arroyo toad [*Anaxyrus californicus* (*Bufo microscaphus* c.)] 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-OR-10B0217-10FE0452, dated March, 28, 2011) 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, terms and conditions of which 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.

#### **Cultural Resources:**

6. 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 within a 100 foot buffer from the project location. 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.

This verification is valid through **March 18, 2017**. If on March 18, 2017 you have commenced or are under contract to commence the permitted activity you will have an additional twelve (12) months to complete the activity under the present NWP terms and conditions. However, if I discover noncompliance or unauthorized activities associated with the permitted activity we can exercise discretionary authority and thereby modify, suspend, or revoke this specific verification at an earlier date in accordance with procedures in 33 C.F.R. § 330.4(e) and 33 C.F.R. § 330.5(c) or (d). At the national level the Chief of Engineers at any time prior to the expiration of a NWP may chose to modify, suspend, or revoke the nationwide use of a NWP after following procedures set forth in 33 C.F.R. § 330.5. It is incumbent upon you to comply with all of the terms and conditions of this NWP verification and to remain informed of any change to the NWPs.

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.

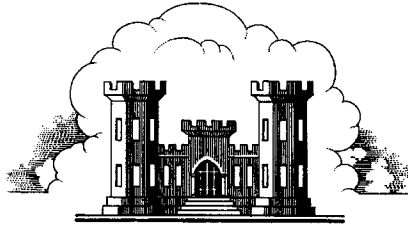
Thank you for participating in the regulatory program. If you have any questions, please contact Sophia Huynh at 213-452-3357 or via e-mail at [Sophia.C.Huynh@usace.army.mil](mailto:Sophia.C.Huynh@usace.army.mil). Please complete the customer survey form at <http://per2.nwp.usace.army.mil/survey.html>, which would help me to evaluate and improve the regulatory experience for others.

Sincerely,



Mark D. Cohen  
Deputy Chief, Regulatory Division

Enclosure(s)



**LOS ANGELES DISTRICT  
US ARMY CORPS OF ENGINEERS**

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

**Permit Number:** *SPL-2011-00257-SCH*

**Name of Permittee:** *Jason Yeung, California Department of Transportation, District 12*

**Date of Issuance:** *September 3, 2013*

Upon completion of the activity authorized by this permit and the mitigation required by this permit, sign this certificate, and return it by **ONE** of the following methods;

1) Email a digital scan of the signed certificate to Sophia.C.Huynh@usace.army.mil  
**OR**

2) Mail the signed certificate to  
US Army Corps of Engineers  
ATTN: Regulatory Division SPL-2011-00257-SCH  
P.O. Box 532711  
Los Angeles, California 90053

I hereby certify the authorized work and any required compensatory mitigation has been completed in accordance with the NWP authorization, including all general, regional, or activity-specific conditions. Furthermore, if credits from a mitigation bank or in-lieu fee program were used to satisfy compensatory mitigation requirements I have attached the documentation required by 33 CFR 332.3(l)(3) to confirm the appropriate number and resource type of credits have been secured.

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Signature of Permittee

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Date