



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

August 30, 2012

REPLY TO

ATTENTION OF:

Office of the Chief
Regulatory Division

DEPARTMENT OF THE ARMY NATIONWIDE PERMIT AUTHORIZATION

Mahmoud Sadeghi
California Department of Transportation, District 8
464 West 4th Street, 6th Floor
San Bernardino, California 92401-1400

Dear Mr. Wentworth:

I am responding to your request, dated August 30, 2012 (File No. SPL-2011-00446-SCH), for a re-verification to your Department of the Army permit, dated June 30, 2011, to discharge fill into 0.461 acre of non-wetland waters of the U.S., in association with the United State Route 395 (US-395) Rumble Strip Installation Project. The proposed work would take place along US-395, from postmile (PM) 19.05 to PM 35.6, near the city of Adelanto, San Bernardino County, California. (34.619228° N, -117.425469° W)

Based on the information you have provided, the Corps of Engineers has determined that your proposed activity complies with the enclosed terms and conditions of Nationwide Permit Number 14 Linear Transportation Projects, as described in your application dated April 25, 2011.

Specifically, you have requested to discharge 52 cubic yards of fill into 0.461 acre of non-wetland waters of the U.S., to widen the existing roadbed to construct a 4-foot-wide median and install a median rumble-strip, and construct 8-foot-wide standard shoulders and install shoulder rumble-strips, in each direction along US-395. Temporary impacts to waters of the U.S. are not anticipated and are not authorized.

For this NWP verification 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. The Permittee shall abide by the terms and conditions of your section 401 Water Quality Certification, dated June 17, 2011.
2. The Permittee has proposed to mitigate for impacts to waters of the U. S., through implementation of the draft conceptual mitigation plan: "Draft Habitat Mitigation and Monitoring Plan" (HMMP) (dated June 2011, and prepared by Zackry West, California Department of

Transportation, District 08). According to the draft HMMP, responsible parties would be as follows: a) Implementation: Craig Wentworth, Senior Environmental Planner California Department of Transportation, District 08; and b) Performance: Craig Wentworth, Senior Environmental Planner California Department of Transportation, District 08. The responsible party for long-term management will be determined prior to initiation of work in waters of the U.S. The Permittee retains ultimate legal responsibility for meeting the requirements of the final HMMP. Any requirements for financial assurances and/or long-term management provisions are also described in the above draft HMMP, as well as in special condition 3 and 4 below.

Prior to initiating construction in waters of the U.S., the Permittee shall submit to the Corps a final HMMP prepared in accordance with the Corps' Los Angeles District Mitigation Guidelines and Monitoring Requirements, dated April 19, 2004, as amended, and the Mitigation Rule (33 C.F.R. Part 332; 73 FR 19670-19687 (April 10, 2008)). The final HMMP shall address the 0.461 acre of permanent impact to waters of the U.S. through enhancement and/or preservation of waters of the U.S. The draft conceptual HMMP discusses four (4) potential mitigation sites within the Mojave River Watershed. Parcel 1 and Parcel 2 exhibit the potential to satisfy compensatory mitigation requirements in the form of preservation. Parcel 3 and 4 exhibit the potential to satisfy compensatory mitigation requirements in the form of enhancement and preservation. A mitigation site shall be selected prior to initiation of work on waters of the U.S. The mitigation ratio shall be determined once the site is selected. All maps and drawings shall be in compliance with the Final Map and Drawing Standards for the Los Angeles District Regulatory Division dated September 21, 2009 (http://www.spl.usace.army.mil/regulatory/pn/SPL-RG_map-drawing-standard_final_w-fig.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 HMMP. The Permittee shall complete site preparation and planting and initiate monitoring as described in the final, approved HMMP prior to or 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 U.S. Army Corps of Engineers, Los Angeles District, Regulatory Division.

3. Prior to initiation of work in waters of the U.S., the Permittee shall record a Conservation Easement (CE), in a form approved by the Corps Regulatory Division, which shall run with the land, obligating the Permittee, its successors and assigns to protect and maintain the approved mitigation site as natural open space in perpetuity. The CE must include a 3rd party easement holder qualified to hold easements pursuant to California Civil Code section 815.3 and Government Code section 65965. The Permittee must provide monies in the form of an endowment (endowment amount to be determined by Property Analysis Record or similar methodology) for the purposes of fulfilling the 3rd party easement holder's responsibilities under the CE. The CE shall preclude establishment of fuel modification zones, paved public trails, drainage facilities, walls, maintenance access roads and/or future easements, unless approved in writing by the Corps Regulatory Division. Further, to the extent practicable, any such facilities outside the CE shall be sited to minimize indirect impacts on the avoided, created, restored and enhanced wetland and non-wetland waters of

the U.S. The Permittee shall receive written approval (by letter or e-mail) from the Corps Regulatory Division of this CE prior to it being executed and recorded. A recorded copy of the CE shall be furnished to the Corps Regulatory Division prior to initiation of work in waters of the U.S.

4. 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. and riparian wetland/habitat areas. 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.

5. 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.

6. Within 45 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 the final, Corps-approved HMMP;
- C) Summary of compliance status with each special condition of this permit (including any noncompliance that previously occurred or is currently occurring and corrective actions taken to achieve compliance);
- D) Color photographs taken at the project site before and after construction for those aspects directly associated with impacts to waters of the U.S.; and
- E) One copy of "as built" drawings for the entire project, including all mitigation sites (all sheets must be signed, dated, to-scale, and no larger than 11 x 17 inches).

7. 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.

8. 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 Corps jurisdictional area.

9. 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, subcontractors, 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.

Endangered Species Act:

10. This Corps permit does not authorize you to take any threatened or endangered species, in particular the Desert tortoise (*Gopherus agassizii*) 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 (BO1-8-08-F-11, dated April 21, 2008) 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:

11. 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' Regulatory Division staff and Archeology staff (Steve Dibble at 213-452-3849 or John Killeen at 213-452-3861) within 24 hours. The Permittee shall immediately suspend all work within 100 feet of 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.

This verification is valid through August 30, 2014. All existing NWP's are valid until March 18, 2017. It is incumbent upon you to remain informed of changes to the NWP's. We will issue a public notice when the NWP's are reissued. Furthermore, if you commence or are under contract to commence this activity before the date that the relevant nationwide permit is modified or revoked, you will have twelve (12) months from the date of the modification or revocation of the NWP to complete the activity under the present terms and conditions of this nationwide permit.

A nationwide permit does not grant any property rights or exclusive privileges. Also, it does not authorize any injury to the property or rights of others or 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 Sophia Huynh of my staff at (213) 452-3357 or via e-mail at Sophia.C.Huynh@usace.army.mil.

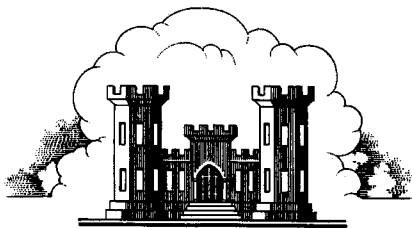
Please be advised that you can now comment on your experience with Regulatory Division by accessing the Corps web-based customer survey form at:
<http://per2.nwp.usace.army.mil/survey.html>.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark D. Cohen".

Mark D. Cohen
Deputy Chief, Regulatory Division

Enclosure



LOS ANGELES DISTRICT
U.S. ARMY CORPS OF ENGINEERS

CERTIFICATION OF COMPLIANCE WITH
DEPARTMENT OF THE ARMY NATIONWIDE PERMIT

Permit Number: *SPL-2011-00446-SCH*

Name of Permittee: *Department of Transportation, District 8, Mahmoud Sadeghi*

Date of Issuance: *August 30, 2012*

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

U.S Army Corps of Engineers, Los Angeles District
Regulatory Division
ATTN: CESPL-RG-SPL-2011-00446-SCH
P.O. Box 532711
Los Angeles, CA 90017-3401

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 CFR section 330.5 or enforcement procedures such as those contained in 33 CFR sections 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