



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

May 30, 2012

REPLY TO
ATTENTION OF:

Office of the Chief
Regulatory Division

DEPARTMENT OF THE ARMY NATIONWIDE PERMIT AUTHORIZATION

Ed Hajj, Project Manager
California Department of Transportation, District 11
Attention: Robert A. James
4050 Taylor Street, MS-242
San Diego, California 92110

Dear Mr. Hajj:

I am responding to your request, dated March 26, 2012, (File No. SPL-2011-00719-SCH), for a Department of the Army Permit. Your proposed project, Repair and Rehabilitation to Culvert 7, would result in 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. part 232 and 330), your proposed project requires a Department of the Army permit. The Repair and Rehabilitation to Culvert 7 is located on the east side of Interstate 805 at post mile 0.65 to 1.11 where the freeway crosses the Otay River (32.590525°N, -117.035686°W), in the city and county of San Diego, California, (as shown on the attached drawing(s)/map(s)).

I have determined construction of the Repair and Rehabilitation to Culvert 7 project complies with Nationwide Permit (NWP) No. 3 Maintenance, if conducted as described in your application.

Specifically, you have requested authorization to repair an existing culvert which includes invert paving along the entire culvert length, sealing joints, re-establishing the outlet ditch, and removing obstructions at the outlet. The proposed project will permanently impact 0.01 acre (11 linear feet) of non-wetland waters of the U.S associated with discharging 150 cubic yards of fill at the culvert outlet, and temporarily impact 0.05 acre (63 linear feet) of non-wetland waters of the U.S. associated with vegetation removal, accessing the culvert, and stream dewatering (see attached figures).

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. The permittee shall abide by the terms and conditions of the project's section 401 Water Quality Certification, dated January 18, 2012.
2. The Permittee has mitigated for permanent impacts to 0.01 acre of waters of the U.S. by using mitigation available from the creation of 0.02 acre of riparian stream habitat and the enhancement of 0.01 acre of riparian stream habitat within the Forester Creek Mitigation Site. The construction of the Forester Creek Mitigation Project is complete and on February 17, 2011 the Corps determined that the site met the Corps-approved success criteria. The Forester Creek Mitigation site is 18 acres in size. It is located in the city of Santee, and abuts existing mitigation sites. The Forester Creek Mitigation site consists of creation of 6.90 acres of riparian habitat, including 0.02 acre of freshwater marsh habitat. In addition to habitat created, approximately 3.46 acres of riparian restoration/enhancement occurred along the Forester Creek portion of the site, and 4.5 acres of coastal sage scrub/native grassland buffer were created in the upland portions of the site.
3. Prior to initiation of work in waters of the U.S., the Permittee shall provide a draft long-term site protection instrument, in a form approved by the Corps Regulatory Division, which will protect and maintain the approved mitigation site as natural open space in perpetuity. The Permittee shall receive written approval (by letter or e-mail) from the Corps Regulatory Division of the long-term protection instrument prior to it being executed and recorded. A recorded copy of the long-term site protection instrument shall be furnished to the Corps Regulatory Division prior to or concurrent with initiation of work in waters of the U.S.
4. At the conclusion of the project, all temporary fill shall be removed and the area shall be restored to pre-construction conditions (contours and vegetated condition) to the maximum extent practicable. 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-native and invasive plant species. Monitoring reports shall be submitted by the Permittee to the Corps, by May 15th annually, one and two years following hydroseeding, documenting the recovery of the restored areas.
5. 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.

6. 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.
7. 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 water of the U.S. Similarly, 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. 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:

9. This Corps permit does not authorize you to take any federally listed threatened or endangered species, in particular the federally listed as endangered least Bell's vireo (*Vireo bellii pusillus*) or adversely modify designated critical habitat. In order to legally take a federally 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 correspondence (FWS-SDG-08BO398-08I0782, dated January 15, 2009) contains mandatory conservation measures to implement to avoid and minimize potential impacts to federally listed species. Your authorization under this Corps permit is conditional upon your compliance with all of the conservation measures associated with the attached correspondence from the Service, which are incorporated by reference in this permit. Failure to comply with the mandatory conservation measures would constitute non-compliance with your Corps permit. The FWS is the appropriate authority to determine compliance with the conservation measures contained in their correspondence dated January 15, 2009 and with the ESA.

Cultural Resources:

10. 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.

Your verification is valid through May 30, 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 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 Sophia Huynh 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>.

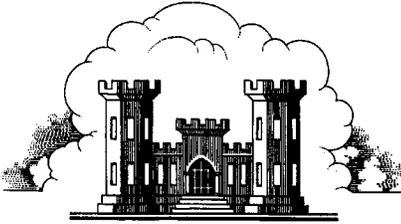
“Building Strong and Taking Care of People!”

Sincerely,



Mark D. Cohen
Deputy Chief, Regulatory Division

Enclosures



LOS ANGELES DISTRICT
U.S. ARMY CORPS OF ENGINEERS

CERTIFICATION OF COMPLIANCE WITH
DEPARTMENT OF THE ARMY NATIONWIDE PERMIT

Permit Number: *SPL-2011-00719-SCH*

Name of Permittee: *California Department of Transportation, District 11, Ed Hajj*

Date of Issuance: *May 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
Regulatory Division
ATTN: CESPL-RG-SPL-2011-00719-SCH
P.O. Box 532711
Los Angeles, California 90053

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 330.5 or enforcement procedures such as those contained in 33 CFR 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

CALIFORNIA DEPARTMENT OF TRANSPORTATION, PROJECT ID 1100000248 / EA 270801
11-SD-805, PM 2.75-3.48, OTAY RIVER
USGS IMPERIAL BEACH QUADRANGLE 7.5 MINUTE SERIES,
SECTION 24, T 18S, R 2W

