



DEPARTMENT OF THE ARMY

Los Angeles District Corps of Engineers
Ventura Field Office
2151 Alessandro Drive, Suite 110
Ventura, California 93001

December 13, 2012

REPLY TO
ATTENTION OF

Regulatory Division

Paul Holmes
California Department of Transportation
District 5
50 Higuera Street
San Luis Obispo, CA 93401

Maureen Spencer
Santa Barbara County Flood Control & Water Conservation District
130 E. Victoria Street, Suite 200
Santa Barbara, CA 93101

DEPARTMENT OF THE ARMY NATIONWIDE PERMIT VERIFICATION

Dear Mr. Holmes and Ms. Spencer:

This is in reply to the application dated July 9, 2012 for a Department of the Army Permit to discharge fill onto waters of the U.S., in association with the Caltrans District 5 (Caltrans) and Santa Barbara County Flood Control & Water Conservation District (District) Las Vegas Creek and San Pedro Creek Drainage Improvement Project (Corps File No. SPL-2011-00782-TS). The proposed work would take place in Las Vegas Creek and San Pedro Creek in the cities of Goleta and Santa Barbara, Santa Barbara County, California.

Specifically, you have requested authorization under Nationwide Permits 3 (*Maintenance*) and 43 (*Stormwater Control Facilities*) to construct Projects A and B, as described in the permit application and in your California Environmental Quality Act Mitigated Negative Declaration dated September 2011.

Project A

Project A would remove the existing concrete box culverts beneath U.S. 101 on Las Vegas Creek and San Pedro Creek and replace these culverts with bridges to provide for a natural channel bottom on each creek. The project would temporarily impact approximately 0.27 acres of Las Vegas Creek and approximately 0.13 acres of San Pedro Creek. In addition, Caltrans proposes to widen San Pedro Creek upstream of the Union Pacific Railroad (UPRR) Bridge to approximately 45 feet.

Project B

Project B would install a new UPRR bridge on San Pedro Creek and Las Vegas Creek, remove concrete from several channel areas to increase capacity, and restore natural channel bottoms downstream of the UPRR bridges. The project would temporarily impact approximately 0.39 acres of Las Vegas Creek and approximately 0.88 acres of San Pedro Creek. The District proposes to grade and widen the creeks to approximately 94 feet in width downstream of the UPRR bridges to conform to the proposed new UPRR bridge width. This grading would result in expansion of jurisdictional waters of the U.S. from approximately 0.07 acres to approximately 0.12 acres on San Pedro Creek and approximately from approximately 0.13 acres to approximately 0.24 acres on Las Vegas Creek. The creeks would narrow to existing widths within approximately 140 feet of the proposed railroad bridges. The east bank of San Pedro Creek would also be expanded and re-vegetated following completion of construction.

Immediately upstream of Calle Real Road on San Pedro Creek, the District proposes to construct a slot-type transition structure with a series of weirs within an existing concrete trapezoidal channel. Due to this project element being constructed in an existing concrete lined channel, impacts are considered temporary.

For both projects, equipment access would be from the existing banks and would require vegetation removal. All temporarily denuded areas would be re-vegetated following completion of the project.

Project C

As proposed, no elements of Project C result in a discharge of dredged or fill material in jurisdictional waters of the U.S., and therefore are not regulated by the Corps. The District also proposes to construct two additional flood control improvement outside waters of the U.S., including a new concrete flood wall on the west bank of San Pedro Creek downstream of the proposed project area and a berm. The height of the flood wall transitions from six (6) feet high at the upstream end and tapers to four (4) feet high at the downstream end. The berm would be approximately two feet high to deflect overland flow, and would be located in the vicinity of a remote Santa Barbara Airport parking lot.

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 Permittees shall provide a copy of this permit to all field staff, contractors, subcontractors, and equipment operators. Copies of this permit shall be readily available at the work site at all times during periods of active work, and shall be presented to any Corps Regulatory Division personnel upon request.
2. Prior to construction in waters of the U.S. the Permittees shall submit to the Corps, a final mitigation and monitoring plan.

3. This permit does not authorize take of any threatened or endangered species or adversely modify designated critical habitat. In order to legally take a listed species, separate authorization under the Endangered Species Act (e.g. Section 10 permit, or a Biological Opinion (BO) under Section 7, with "incidental take" provisions with which you must comply) is required.
4. This permit does not authorize you to take any migratory birds pursuant to the Migratory Bird Treaty Act. Vegetation shall not be removed from 15 February to 31 August to avoid impacts to nesting birds unless the results of a pre-project bird survey by a qualified biologist indicates no nesting birds are present in the project area. Pre-project surveys shall be conducted within two weeks of the proposed vegetation removal. Survey results shall be submitted to the Corps Regulatory Division prior to construction activities in waters of the U.S. (electronic mail, facsimile, standard mail, is acceptable). If nesting birds are present, no work shall occur until the young have fledged and would no longer be impacted by the project. Survey results shall be submitted to the Corps Regulatory Division prior to construction activities in waters of the U.S.
5. Appropriate measures shall be taken to maintain near normal downstream flows and to minimize flooding during project activities in waters of the U.S. Fill materials must be of a type, and be placed in a manner, that will not result in erosion by high flows.
6. No debris, soil, sand, bark, slash, sawdust, rubbish, cement or washings thereof, asphalt, oil or petroleum products, or any other material that may be harmful to fish or wildlife, that results from construction activities shall be allowed to enter or be placed where it may be washed by rainfall or runoff into waters of the U.S. When construction activities are completed, all excess materials, and/or debris shall be removed from the work area to an approved off-site disposal area, outside of waters of the U.S.
7. Exotic and invasive plant species shall be removed during construction activities and shall be disposed at an approved off-site location, outside waters of the U.S. Target species include but are not limited to: giant reed (*Arundo donax*), castor bean (*Ricinus communis*), salt cedar (*Tamarix* sp.), tree tobacco (*Nicotiana glauca*), yellow star thistle (*Centaurea solstitialis*), artichoke thistle (*Cynara cardunculus*), pampas grass (*Cortaderia selloana*), fountain grass (*Pennisetum setaceum*), and cocklebur (*Xanthium strumarium*).
8. Staging and storage areas for equipment and construction materials shall be located in uplands and where possible, a minimum of 100 feet from waters of the U.S. Storage areas located less than 100 feet from waters shall be approved by the Corps Regulatory Division, and these areas shall be shown on construction plans.
9. Temporary fills in special aquatic sites are not allowed unless specifically authorized by the Corps Regulatory Division. Following completion of the construction activity, temporary fills must be entirely removed to an upland location, outside waters of the

U.S., and the affected area must be restored to the pre-project condition in accordance with the final Corps-approved mitigation plan.

10. Work shall be performed during periods when the channel is dry or flows are absent or minimal, generally May through October. Standard Best Management Practices shall be implemented to minimize turbidity within the affected waterbody, and appropriate measures must be taken to minimize flooding and erosion on adjacent properties.
11. The Corps Regulatory Division project manager shall be notified of any accidental spill of hazardous materials within 12 hours of detection. Notification may be in the form of an electronic mail message, telephone, or facsimile. Notification shall include the reason for the spill, the exact location of the spill, the type and approximate quantity of the materials spilled, and the measures taken to control and clean up the spilled materials.
12. The Permittees shall revegetate all impacted areas, which total approximately 1.67 acre(s) of waters of the U. S., through re-establishment of 1.67 acre(s) of waters of the U.S. as described in a final, Corps-approved mitigation plan (plan) in accordance with condition 2 above. The Permittees shall complete site preparation and planting and initiate monitoring as described in the plan, within 45 days of completion of construction activities in waters of the U.S. The Permittees retain ultimate legal responsibility for meeting the requirements of the plan. Detailed mitigation objectives, performance standards, monitoring requirements, financial assurances and/or long-term management provisions are described in the plan. Your responsibility to complete the required compensatory mitigation as set forth in this permit 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.
13. The Permittees shall ensure the acreage of waters of the U.S. and aquatic resource functions of each site shall equal or exceed pre-project acreage of waters of the U.S. and aquatic resource functions by the end of the monitoring period as specified in the plan. Functions for the above impact areas shall be assessed annually using CRAM, RSRA, or a similar Corps-approved functional/condition assessment method. The Permittees responsibility to complete the required restoration as set forth in this permit shall not be considered fulfilled until the Permittees have met or exceeded all final performance standards for the impact areas, and has obtained written confirmation from the Corps verifying successful restoration. Note: if not done previously as part of the permit application evaluation process, then prior to initiating construction in sites within waters of the U.S. subject to authorized, temporary impacts, the permittee shall conduct a functional/condition assessment to establish pre-project (baseline) functions at each impact site.
14. GIS DATA: Within 60 days following permit issuance, the permittees shall provide to this office GIS data (polygons only) depicting the boundaries of all mitigation sites, as authorized in the final mitigation plan. 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 data dictionary, as specified in the current Map and Drawing Standards for the Los Angeles District Regulatory Division, and shall include a text file of metadata, including datum, projection, and mapper contact information. If any deviations have occurred, you shall submit as-built GIS data (polygons only) accompanied by a narrative description listing and explaining each deviation within 60 days following completion of mitigation construction activities.

15. The Permittees shall clearly mark the limits of the work area with flagging or similar means to ensure mechanized equipment does not enter non-project 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 mitigation requirements.
16. Within 45 calendar days of completion of authorized work in waters of the U.S., the Permittees shall submit to the Corps Regulatory Division a post-project implementation memorandum including the following information:
 - A) Dates work within waters of the U.S. was initiated and completed;
 - B) 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 or proposed to achieve compliance);
 - C) Color photographs (including map of photo points) taken at the project site before and after construction for those aspects directly associated with permanent impacts to waters of the U.S. such that the extent of authorized fills can be verified;
 - D) One copy of "as built" drawings for the entire project. Electronic submittal (Adobe PDF format) is preferred. All sheets must be signed, dated, and to-scale. If submitting paper copies, sheets must be no larger than 11 x 17 inches; and
 - E) Signed Certification of Compliance (attached as part of this permit package).
17. Within 45 calendar days of complete installation of all mitigation, the Permittees shall submit to the Corps Regulatory Division a memorandum including the following information:
 - A) Date(s) all mitigation was installed and monitoring was initiated;
 - B) Schedule for future mitigation monitoring and reporting pursuant to final, Corps-approved mitigation plan;
 - C) Color photographs (including map of photo points) taken at each mitigation site before and after installation such that correct installation per final, Corps-approved mitigation plan can be verified;
 - D) One copy of "as built" drawings for the entire project, including all mitigation sites. Electronic submittal (Adobe PDF format) is preferred. All sheets must be signed, dated, and to-scale. If submitting paper copies, sheets must be no larger than 11 x 17 inches; and

E) 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 or proposed to achieve compliance).

18. Pursuant to 36 C.F.R. section 800.13, in the event of any discoveries of either human remains, archeological deposits, or any other type of historic property during construction, the Permittee shall notify, within 24 hours, the Corps' Regulatory Division Staff (Theresa Stevens, Ph.D. at 805-585-2146) and Archaeology Staff (Steve Dibble at 213-452-3849 or John Killeen at 213-452-3861). The Permittees shall immediately suspend all work in any area(s) where potential cultural resources are discovered. The Permittees shall not resume construction in the area surrounding the potential cultural resources until the Corps Regulatory Division re-authorizes project construction per regulations at 36 C.F.R. section 800.13.

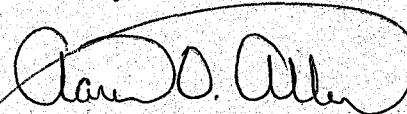
Your verification is valid through **December 13, 2014**. All NWP's will expire on March 18, 2017. It is incumbent upon you to remain informed of changes to the NWP's. A public notice of the change(s) will be issued when any of the NWP's are modified, reissued, or revoked. Furthermore, if you commence 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 Theresa Stevens, Ph.D. at 805-585-2146 or via e-mail at theresa.stevens@usace.army.mil. Please 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,



Aaron O. Allen, Ph.D.
Chief, North Coast Branch
Regulatory Division

Enclosure