DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, CORPS OF ENGINEERS
VENTURA FIELD OFFICE
2151 ALESSANDRO DRIVE, SUITE 110
VENTURA, CALIFORNIA 93001

June 5, 2012

REPLY TO
ATTENTION OF:
Regulatory Division

Mitch Dallas
California Department of Transportation
District 5
50 Higuera Street
San Luis Obispo, California 93401

Dear Mr. Dallas:

This is in reply to your application (File No. SPL-2012-00367-TS) dated May 29, 2012, for a Department of the Army emergency permit to discharge fill material into waters of the U.S., in association with the U.S. 101 at Gaviota (Post Mile 47.4) Emergency Culvert Replacement Project. Your application indicated the 90-inch diameter corrugated metal pipe culvert has cracked and a sinkhole has developed creating a potential for catastrophic culvert and road failure. The entire culvert, existing rock slope protection and an end wall will be replaced as described below, and some failing "sackcrete" at the downstream end of the culvert will be removed. Dewatering and temporary water diversion will occur during project construction because over-excavation is required to install the new culvert. The proposed work would take place just north of the Gaviota tunnel, in "Janet" Creek and at is confluence with Gaviota Creek, Santa Barbara County, California.

Based on the information you have provided, the Corps of Engineers has determined that your proposed activity complies with the terms and conditions of Regional General Permit (RGP) No. 63 - Emergency Authorizations (enclosed).

As long as you comply with the general permit conditions of RGP 63, an individual permit is not required.

Specifically, you are authorized to conduct the following regulated activities:

1. Temporarily impact approximately 150 linear feet of non-wetland waters of the U.S. to complete the project.
2. Temporarily divert and dewater the project area for approximately 150 linear feet.
3. Replace the failed 90-inch diameter corrugated metal pipe culvert beneath all travel lanes on U.S. 101 with a concrete culvert for its entire length.
4. Remove and replace rock slope protection at the culvert outlet.
5. Replace the end wall at the downstream end of the culvert and construct it in a manner which prevents the creek from flanking the structure during high flows.

In addition to the standard terms and conditions required by RGP 63, you must comply with the following non-discretionary Special Conditions:

Special Conditions:

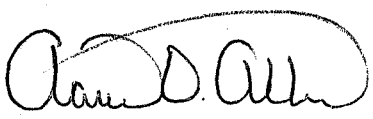
1. The Permittee shall implement standard Best Management Practices (BMPs) to minimize impacts on water quality in the project area and downstream as described in the electronic mail correspondence from the Central Coast Regional Water Quality Control Board (dated May 30, 2012) and the Technical Conditioned Section 401 Water Quality Certification for RGP 63 (dated December 23, 2008).
2. The Permittee shall implement standard Best Management Practices (BMPs) and protective measures for the California red-legged frog (*Rana aurora draytonii*) provided by the U.S. Fish and Wildlife Service (enclosed) to minimize impacts on this species and designated critical habitat in the project area and downstream as described in the electronic mail correspondence from the U.S. Fish and Wildlife Service (dated May 30, 2012).
3. The Permittee shall implement standard Best Management Practices (BMPs) to minimize impacts on southern steelhead (*Oncorhynchus mykiss*) in the project area and downstream as described in the electronic mail correspondence from the National Marine Fisheries Service (dated May 30, 2012).
4. The Permittee shall certify the project is consistent with the Coastal Zone Management Act within 30 days of project completion.

A general 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 Theresa Stevens, Ph.D. at 805-585-2146 or via e-mail at theresa.stevens@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,



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

Enclosure RGP 63

CALIFORNIA RED-LEGGED FROG PROTECTIVE MEASURES FROM U.S. FISH AND WILDLIFE SERVICE

1. A biologist(s) familiar with California red-legged frogs should participate in activities associated with the capture, handling, and monitoring of this species.

2. The biologist(s) should survey the project site prior the onset of work activities. If any life stage of the California red-legged frog is found and these individuals are likely to be killed or injured by work activities, the approved biologist should be allowed sufficient time to move them from the site before work activities begin. The biologist(s) should relocate the California red-legged frogs the shortest distance possible to a location that contains suitable habitat and should not be affected by activities associated with the proposed project. The biologist(s) should maintain detailed records of any individuals that are moved (e.g., size, coloration, any distinguishing features, photographs [digital preferred]) to assist him or her in determining whether translocated animals are returning to the original point of capture.

3. Before any activities begin on a project, a biologist(s) should conduct a training session for all construction personnel. At a minimum, the training should include a description of the California red-legged frog and its habitat, the specific measures that are being implemented to conserve the California red-legged frog for the current project, and the boundaries within which the project may be accomplished.

4. The biologist(s) should be present at the work site until all California red-legged frogs have been removed, workers have been instructed, and disturbance of habitat has been completed.

5. During project activities, all trash that may attract predators should be properly contained, removed from the work site, and disposed of regularly. Following construction, all trash and construction debris should be removed from work areas.

6. All refueling, maintenance, and staging of equipment and vehicles should occur at least 60 feet from riparian habitat or water bodies and not in a location from where a spill would drain directly toward aquatic habitat. The biologist(s) should ensure contamination of habitat does not occur during such operations. Prior to the onset of work, the Corps should ensure that a plan is in place for prompt and effective response to any accidental spills. All workers should be informed of the importance of preventing spills and of the appropriate measures to take should a spill occur.

7. The number of access routes, size of staging areas, and the total area of the activity should be limited to the minimum necessary to achieve the project goal. Environmentally sensitive areas should be established to confine access routes and construction areas to the minimum area necessary to complete construction, and minimize the impact to California red-legged frog habitat; this goal includes locating access routes and construction areas outside of wetlands and riparian areas to the maximum extent practicable.

8. To control sedimentation during and after project implementation, the Corps and applicant should implement best management practices outlined in any authorizations or permits, issued under the authorities of the Clean Water Act, for the specific project. If best management practices are ineffective, the Corps should attempt to remedy the situation immediately, in consultation with the Service.