



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

July 9, 2012

REPLY TO  
ATTENTION OF:

Regulatory Division

Eduardo Aguilar, Branch Chief  
California Department of Transportation, District 7  
Division of Environmental Planning  
100 S. Main Street, MS-16A  
Los Angeles, California 90012

Dear Mr. Aguilar:

This is in reply to your application (File No. SPL-2012-00384-TS) dated May 14, 2012 and revised June 14, 2012, for a Department of the Army Permit to discharge fill onto waters of the U.S., in association with the Caltrans VEN 150 Slope Stabilization project at Post Mile 29.4. The proposed work would take place in Santa Paula Creek near the city of Santa Paula, Ventura County, California.

Specifically, you have requested authorization to:

1. Permanently impact approximately 375 linear feet (0.111 acre) of waters of the U.S. in association with the SR 150 retaining wall as described in your revised permit application (June 14, 2012).
2. Temporarily impacts approximately 1000 linear feet (0.275 acre) of waters of the U.S. in to allow temporary construction access to Santa Paula Creek for the purpose of constructing the SR 150 retaining wall as described in your revised permit application (June 14, 2012).
3. The SR 150 retaining wall and temporary construction activities would result in approximately 155 cubic yards (cy) of excavation, 988 cy of backfill, 537 cy of rock slope protection, and 951 cy of structural fill/retaining wall within Santa Paula Creek. These estimates include discharges below and above the ordinary high water mark in Santa Paula Creek.
4. Mitigate for 0.111 acres of permanent impact to waters of the U.S. via purchase of 0.55 acres/credits from the Corps-approved Santa Paula Creek Mitigation Bank prior to initiation of construction activities in waters of the U.S.

While this activity meets the general terms and conditions for authorization under Nationwide Permit Number 13 [Federal Register, March 12, 2007, pp. 11092-11198], we note that you do not have Section 401 water quality certification from the California Regional Water Quality Control Board (RWQCB). Therefore, your request is denied without prejudice. You will receive authorization from the Corps when you have met the requirements outlined below.

According to 33 CFR 330.4, 401 state water quality certification pursuant to Section 401 of the Clean Water Act, or waiver thereof, is required prior to authorization of your project. You must therefore obtain Section 401 certification or waiver, or provide the Corps with evidence that 60 days have passed since you applied to the RWQCB for certification. Be aware that any conditions on your Section 401 certification will become conditions on your Nationwide Permit authorization.

When you receive your Section 401 certification or waiver (or when 60 days have passed since you applied), you should contact the Corps Project Manager for this project, Theresa Stevens, Ph.D. at 805-585-2146. Please reference application SPL-2012-00384-TS in your letter. Your authorization could then be issued without further delay or processing.

Furthermore, you must comply with the following non-discretionary Special Conditions:

1. Prior to initiating construction in waters of the U.S., and to mitigate for impacts to 0.111 acre(s) of non-wetland waters of the U.S., the Permittee shall provide documentation verifying purchase of 0.55 acres/credits for the enhancement of non-wetland waters of the U.S. and riparian vegetation from the Corps-approved Santa Paula Creek mitigation bank. The Permittee shall not initiate work in waters of the U.S. prior to receiving written confirmation (by letter or e-mail) from the Corps Regulatory Division as to compliance with this special condition. The permittee retains responsibility for providing the compensatory mitigation until the number and resource type of credits described above have been secured from a sponsor and the district engineer has received documentation that confirms that the sponsor has accepted the responsibility for providing the required compensatory mitigation. This documentation may consist of a letter or form signed by the sponsor, with the permit number and a statement indicating the number and resource type of credits that have been secured from the sponsor.
2. The Permittee shall notify the Corps of the construction start date at least five (5) business days in advance of initiation of construction. Notification may be made by electronic mail, regular mail, facsimile, or telephone.

3. The Permittee shall clearly mark the limits of the workspace with flagging or similar means to ensure mechanized equipment does not enter preserved waters of the U.S. 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.
4. Equipment staging and storage areas, including materials storage, shall be located at least 100 feet from waters of the U.S.
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. 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 (Theresa Stevens, Ph.D. at 805-585-2146) and 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. 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.

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>.

Sincerely,



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

Enclosure

CESPL-RG-N

Application: California Department of Transportation District 7: VEN-150 Slope Stabilization on Santa Paula Creek @ Post Mile 29.4 (SPL-2012-00384-TS)

**MEMORANDUM FOR RECORD**

**SUBJECT:** Department of the Army Memorandum Documenting Nationwide Permit Verification

**Applicant:** California Department of Transportation, District 7 (Caltrans)

**Project Location (Waterway, Section, Township, Range, City, County, State):** The project is located on Santa Paula Creek along SR 150 near Steckel Park and the City of Santa Paula, Ventura County, CA (34.4166 N Latitude/ -1190846 W Longitude).

**Pre-Construction Notification Receipt Date:** 19 May 2012      **Complete?** Yes No

**Additional Information Requested Date:** 05 June 2012

**Pre-Construction Notification Complete Date:** 14 June 2012

**Waters of the US:**

Preliminary JD form dated: 03 July 2012

**Authority:** Section 10    Section 404    Section 103

**Project Description (Describe activities in waters of the U.S. considered for verification):**

1. Permanently impact approximately 375 linear feet (0.111 acre) of waters of the U.S. in association with the SR 150 retaining wall as described in your revised permit application (June 14, 2012).
2. Temporarily impacts approximately 1000 linear feet (0.275 acre) of waters of the U.S. to allow temporary construction access to Santa Paula Creek for the purpose of constructing the SR 150 retaining wall as described in your revised permit application (June 14, 2012).
3. The SR 150 retaining wall and temporary construction activities would result in approximately 155 cubic yards (cy) of excavation, 988 cy of backfill, 537 cy of rock slope protection, and 951 cy of structural fill/retaining wall within Santa Paula Creek. These estimates include discharges below and above the ordinary high water mark in Santa Paula Creek.
4. Mitigate for 0.111 acres of permanent impact to waters of the U.S. via purchase of 0.55 acres/credits from the Corps-approved Santa Paula Creek Mitigation Bank prior to initiation of construction activities in waters of the U.S.

**Type of Permit Requested:** NWP # 13      RGP #

**Pre-construction Notification Required:** Yes No

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**Waiver required to begin work (GC 31 (a)(2) as applied to appropriate NWP):**

Yes  No

Rationale: The proposed fill material exceeds one cubic yard per linear foot below the plane of ordinary high water. However, this is necessary to provide adequate stabilization for the road because Santa Paula Creek, in this location is incised and degrades during seasonal low flow and high flow events.

**Coordination with Agencies/Tribes Needed (GC 31(d) as applied to appropriate NWP):**

Yes  No Date:

Resolution: In accordance with the *January 1, 2004 Programmatic Agreement among the Federal Highway Administration, the Advisory Council on Historic Preservation, the California State Historic Preservation Office, and the California Department of Transportation Regarding Compliance with Section 106 of the National Historic Preservation Act* (106 Programmatic Agreement), Caltrans archaeologists provided a memorandum (dated 29 February 2012) which indicated a review of historic property survey records and a field investigation was conducted and no resources were detected and there is no potential for impacts on prehistoric or historic cultural resources.

**Commenting Agencies:** Caltrans, under their lead agency authority provided by FHWA coordinated with the agencies.

US Fish and Wildlife Service

National Marine Fisheries Service

State Agency (list commenting state agencies)

State Historic Preservation Office

Other: California Department of Fish and Game, Los Angeles Regional Water Quality Control Board

**Substantive Issues Raised and Corps Resolution (Consideration of Comments):** No substantive issues raised.

**Compliance with Other Federal Laws (If specific law is not applicable write N/A):**

a) Endangered Species Act: Caltrans, under their lead agency authority provided by FHWA made endangered species determinations following a biological survey of the project site and coordination with resource agencies.

Name of species present: least Bell's vireo (*Vireo bellii pusillus*); California red-legged frog (*Rana draytonii*); southern steelhead (*Oncorhynchus mykiss*)

Effects determination: No effect (least Bell's vireo); not likely to adversely affect (steelhead); may adversely affect (red-legged frog)

Date of Service(s) concurrence: NMFS -19 June 2012; USFWS - 29 June 2012 (date of Biological Opinion); no concurrence required for lead agency "no effect" determination on least Bell's vireo.

Basis for "no effect" determination: Species not detected in surveys or in records searches.

Additional information (optional): None.

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b) Magnuson-Stevens Act (Essential Fish Habitat): Not applicable.

Name of species present:

Effects determination:

Date of Service(s) concurrence: Basis for "no effect" determination:

Additional information (optional):

c) Section 106 of the National Historic Preservation Act: See below.

Known site present:  yes  no

Survey required/conducted:  yes  no

Effects determination: No effect.

Rationale: In accordance with the *January 1, 2004 Programmatic Agreement among the Federal Highway Administration, the Advisory Council on Historic Preservation, the California State Historic Preservation Office, and the California Department of Transportation Regarding Compliance with Section 106 of the National Historic Preservation Act* (106 Programmatic Agreement), Caltrans archaeologists provided a memorandum (dated April 25, 2011) which indicated a review of historic property survey records and a field investigation was conducted and no resources were detected.

Date consultation complete (if necessary): 29 February 2012

Additional information (optional): None.

d) Section 401 Water Quality Certification: PENDING

Individual certification required:  yes  no

Issued  Waived  Denied

e) Coastal Zone Management Act: Not applicable.

Individual certification required:  yes  no

Issued  Waived  Denied

Additional information (optional): The project is not in the coastal zone and no effect on the coastal zone would occur as a result of the project.

f) Wild and Scenic Rivers Act: Not applicable.

Project located on designated or "study" river:  yes  no

Managing Agency:

Date written determination provided that the project will not adversely affect the Wild and Scenic River designation or study status:

Additional information (optional):

g) Other

**Special Conditions Required (include rationale for each required condition/explanation for requiring no special conditions):**  yes  no

*Rationale:* Each special condition below would minimize impacts to waters of the U.S.

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**Compensatory Mitigation Determination:** The applicant has avoided and minimized impacts to the maximum extent practicable.

- (1) Is compensatory mitigation required for unavoidable impacts to jurisdictional aquatic resources to reduce the individual and cumulative adverse environmental effects to a minimal level?
- yes  no [If "no," do not complete the rest of this section and include an explanation of why not here] The project would have minimal impacts on non-wetland waters of the U.S. and an area equaling the proposed permanent and temporary impact area (0.123 acres total) would be revegetated with native species similar to adjacent areas upon completion of the earthwork.
- (2) Is the impact in the service area of an approved mitigation bank?  yes  no
- i. Does the mitigation bank have appropriate number and resource type of credits available?  yes  no
- (3) Is the impact in the service area of an approved in-lieu fee program?  yes  no
- i. Does the in-lieu fee program have appropriate number and resource type of credits available?  yes  no
- (4) Check the selected compensatory mitigation option(s):
- mitigation bank credits
- in-lieu fee program credits
- permittee-responsible mitigation under a watershed approach
- permittee-responsible mitigation, on-site and in-kind
- permittee-responsible mitigation, off-site and out-of-kind
- (5) If a selected compensatory mitigation option deviates from the order of the options presented in §332.3(b)(2)-(6), explain why the selected compensatory mitigation option is environmentally preferable. Address the criteria provided in §332.3(a)(1) (i.e., the likelihood for ecological success and sustainability, the location of the compensation site relative to the impact site and their significance within the watershed, and the costs of the compensatory mitigation project):

**Determination (Paragraph D - District Engineer's Decision, 77 FR 10287):**

The proposed activity, with proposed mitigation (if applicable) would result in no more than minimal individual and cumulative adverse environmental effects and would not be contrary to the public interest provided the special conditions and/or modifications identified in the above

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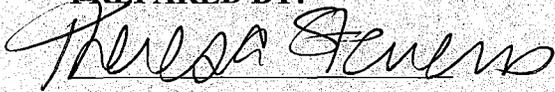
are incorporated. This project complies with all terms and conditions of NWP 13 including any applicable regional conditions.

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APPLICATION: SPL-2012-00384-TS

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**PREPARED BY:**



Date: 09 July 2012

Theresa Stevens, Ph.D.  
Sr. Project Manager  
North Coast Branch  
Regulatory Division

**REVIEWED BY:**



Date: 9 July 2012

Crystal Huerta  
Project Manager  
North Coast Branch  
Regulatory Division

**APPROVED BY:**



Date: 9 July 2012

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