



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS LOS ANGELES DISTRICT
REGULATORY DIVISION, CARLSBAD FIELD OFFICE
6010 HIDDEN VALLEY ROAD, SUITE 105
CARLSBAD, CALIFORNIA 92011

February 1, 2013

Regulatory Division

Mr. Rob Rundle
San Diego Association of Governments
401 B Street, Suite 800
San Diego, California 92101

DEPARTMENT OF THE ARMY NATIONWIDE PERMIT VERIFICATION

Dear Mr. Rundle:

I am responding to your request (SPL-2012-00914-MBS) for a Department of the Army permit. Your proposed project, East Brook to Shell Geotechnical Borings, would result in a discharge of fill material into waters of the United States (U.S.) and would consist of work in or affecting navigable waters of the U.S. Therefore, pursuant to section 404 of the Clean Water Act (33 U.S.C. 1344; 33 C.F.R. parts 323 and 330) and section 10 of the Rivers and Harbors Act (33 U.S.C. 403), your proposed project requires a Department of the Army permit. The East Brook to Shell Geotechnical Borings Project is located at along a portion of the Los Angeles - San Diego - San Luis Obispo (LOSSAN) rail corridor within the City of Oceanside in northern San Diego County, California. Specifically, the proposed project is located in the North County Transit District (NCTD) right of way over the San Luis Rey River (between Lat/Long 33.204859N/-117.388553W and 33.203225N/-117.388103W; Figures 1, 2, and 6b).

I have determined construction of East Brook to Shell Geotechnical Borings Project complies with Nationwide Permit (NWP) Number 6 - Survey Activities, if conducted as described in your application.

Specifically, and as shown on the attached drawings and figures, you are authorized to conduct the following regulated activities:

Conduct geotechnical testing of the rail bridge over the San Luis Rey River consisting of six geotechnical borings and cone penetrometer test soundings through the existing railroad bridge deck into the river below. Drilling will occur approximately 15 to 20 feet north of each of the six existing bridge piers within the San Luis Rey River. Six, four to eight inch, steel casings will be driven into the riverbed until competent material is encountered (up to 20 feet below the ground surface). Once the hole is completed, all drilling fluid will be pumped out of the hole and the boring will be backfilled. The drilling fluid will be collected and transported away, with no fluid

entering waters of the U.S. Geotechnical borings and cone penetrometer test soundings will temporarily impact 300 square inches of wetland and non-wetland waters of the U.S.

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. Fifteen days prior to work in waters of the U.S., the Permittee shall provide written notification to the U.S. Army Corps of Engineers (Corps) of anticipated starting and completion dates of activities authorized herein.
2. A pre-construction survey of the project area for *Caulerpa taxifolia* (Caulerpa) shall be conducted in accordance with the Caulerpa Control Protocol (see <http://swr.nmfs.noaa.gov/hcd/caulerpa/ccp.pdf>) not earlier than 90 calendar days prior to planned construction and not later than 30 calendar days prior to construction. The results of that survey shall be furnished to the Corps, National Oceanic Atmospheric Administration National Marine Fisheries Service (NOAA Fisheries), and the California Department of Fish and Wildlife (CDFW) at least 15 calendar days prior to initiation of work in navigable waters. In the event that Caulerpa is detected within the project area, the Permittee shall not commence work until such time as the infestation has been isolated, treated, and the risk of spread is eliminated as confirmed in writing by the Corps, in consultation with NOAA Fisheries and CDFW.
3. To ensure navigational safety, the Permittee shall provide appropriate notifications to the U.S. Coast Guard as described below:

Commander, 11th Coast Guard District (dpw)
TEL: (510) 437-2980
E-mail: d11LNM@uscg.mil
Website: <http://www.uscg.mil/dp/lnmrequest.asp>

U.S. Coast Guard, Sector LA-LB (COTP)
TEL: (310) 521-3860
E-mail: john.p.hennigan@uscg.mil

- a. The Permittee shall notify the U.S. Coast Guard, Commander, 11th Coast Guard District (dpw) and the U.S. Coast Guard, Sector LA-LB (COTP) (contact information shown above), not less than 14 calendar days prior to commencing work and as project information changes. The notification shall be provided by e-mail with at least the following information, transmitted as an attached Word or PDF file:
 - 1) Project description including the type of operation (i.e. dredging, diving, construction, etc).
 - 2) Location of operation, including Latitude / Longitude (NAD 83).

- 3) Work start and completion dates and the expected duration of operations. The Coast Guard needs to be notified if these dates change.
 - 4) Vessels involved in the operation (name, size and type).
 - 5) VHF-FM radio frequencies monitored by vessels on scene.
 - 6) Point of contact and 24 -hour phone number.
 - 7) Potential hazards to navigation.
 - 8) Chart number for the area of operation.
 - 9) Recommend the following language be used in the LNM: "Mariners are urged to transit at their slowest safe speed to minimize wake, and proceed with caution after passing arrangements have been made."
- b. The Permittee and its contractor(s) shall not remove, relocate, obstruct, willfully damage, make fast to, or interfere with any aids to navigation defined at 33 C.F.R. chapter I, subchapter C, part 66. The Permittee shall ensure its contractor notifies the Eleventh Coast Guard District in writing, with a copy to the Corps Regulatory Division, not less than 30 calendar days in advance of operating any equipment adjacent to any aids to navigation that requires relocation or removal. Should any federal aids to navigation be affected by this project, the Permittee shall submit a request, in writing, to the Corps Regulatory Division as well as the U.S. Coast Guard, Aids to Navigation office (contact information provided above). The Permittee and its contractor are prohibited from relocating or removing any aids to navigation until authorized to do so by the Corps Regulatory Division and the U.S. Coast Guard.
- c. Should the Permittee determine the work requires the temporary placement and use of private aids to navigation in navigable waters of the U.S., the Permittee shall submit a request in writing to the Corps Regulatory Division as well as the U.S. Coast Guard, Aids to Navigation office (contact information provided above). The Permittee is prohibited from establishing private aids to navigation in navigable waters of the U.S. until authorized to do so by the Corps Regulatory Division and the U.S. Coast Guard.
- d. The COTP may modify the deployment of marine construction equipment or mooring systems to safeguard navigation during project construction. The Permittee shall direct questions concerning lighting, equipment placement, and mooring to the appropriate COTP.
4. The permitted activity shall not interfere with the right of the public to free navigation on all navigable waters of the United States as defined by 33 C.F.R. Part 329.
 5. The Permittee shall discharge only clean construction materials suitable for use in the oceanic environment. The Permittee shall ensure no debris, soil, silt, sand, sawdust, rubbish, cement or concrete washings thereof, oil or petroleum products, from construction shall be allowed to enter into or placed where it may be washed by rainfall or runoff into waters of the United States. Upon completion of the project authorized herein, any and all excess material or debris shall be completely removed from the work area and disposed of in an appropriate upland site.

6. Water Quality: The Permittee shall ensure that water quality is maintained within the San Luis Rey River and its adjacent wetlands by incorporating appropriate design elements into the project as approved by the Corps and the Regional Water Quality Control Board (RWQCB). The terms and conditions of the “Clean Water Act Section 401 Water Quality Certification of U.S. Army Corps of Engineers 2012 Nationwide Permits,” issued by the State Water Resources Control Board on April 19, 2012 (attached), are incorporated as conditions of this authorization.
7. Cultural Resources: 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' Archeology Staff (Steve Dibble at 213-452-3849 or John Killeen at 213-452-3861) and Corps Project Manager (Meris Bantilan-Smith at 760-602-4836) within 24 hours. 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.
8. The Permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the Permittee will be required, upon due notice from the Corps of Engineers Regulatory Division, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

Your verification is valid through January 31, 2015. 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 Meris Bantilan-Smith at 760-602-4836 or via e-mail at Meris.Bantilan-Smith@usace.army.mil.

Please be advised 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>.

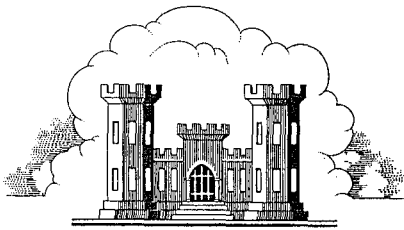
“Building Strong and Taking Care of People!”

Sincerely,

A handwritten signature in black ink, reading "Therese O. Bradford". The signature is written in a cursive style with a large, stylized "T" and "B".

Therese O. Bradford
Chief, South Coast Branch

Enclosures



**LOS ANGELES DISTRICT
U.S. ARMY CORPS OF ENGINEERS**

**CERTIFICATE OF COMPLIANCE WITH
DEPARTMENT OF THE ARMY NATIONWIDE PERMIT**

Permit Number: *SPL-2012-00914-MBS*

Name of Permittee: *Mr. Rob Rundle, San Diego Association of Governments*

Date of Issuance: *February 1, 2013*

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

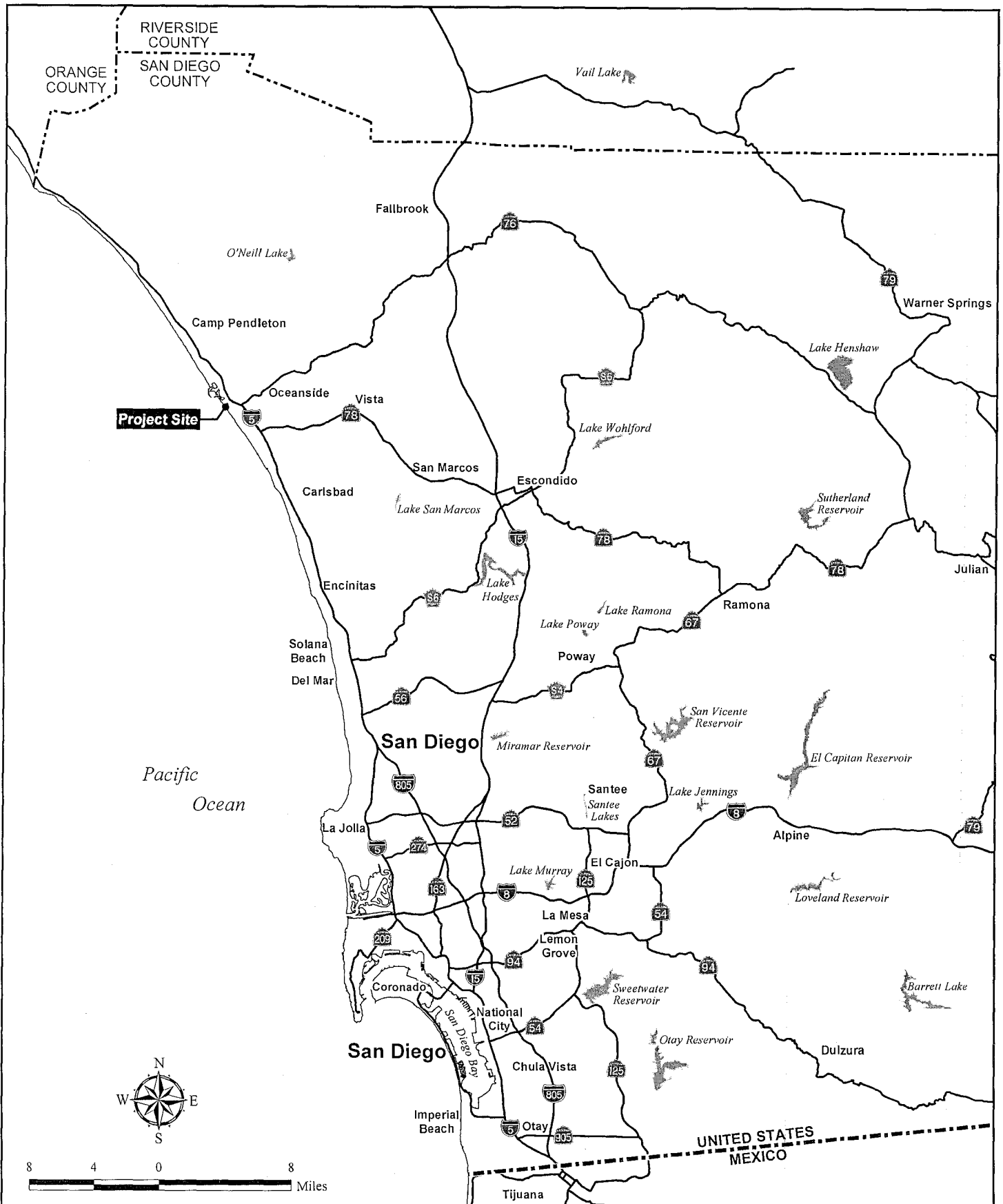
U.S. Army Corps of Engineers, Los Angeles District
Regulatory Division, Carlsbad Field Office
ATTN: CESPL-RG-SPL-2012-00914-MBS
6010 Hidden Valley Road, Suite 105
Carlsbad, California 92011

Please note 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 C.F.R. § 330.5 or enforcement procedures such as those contained in 33 C.F.R. §§ 326.4 and 326.5.

I hereby certify 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

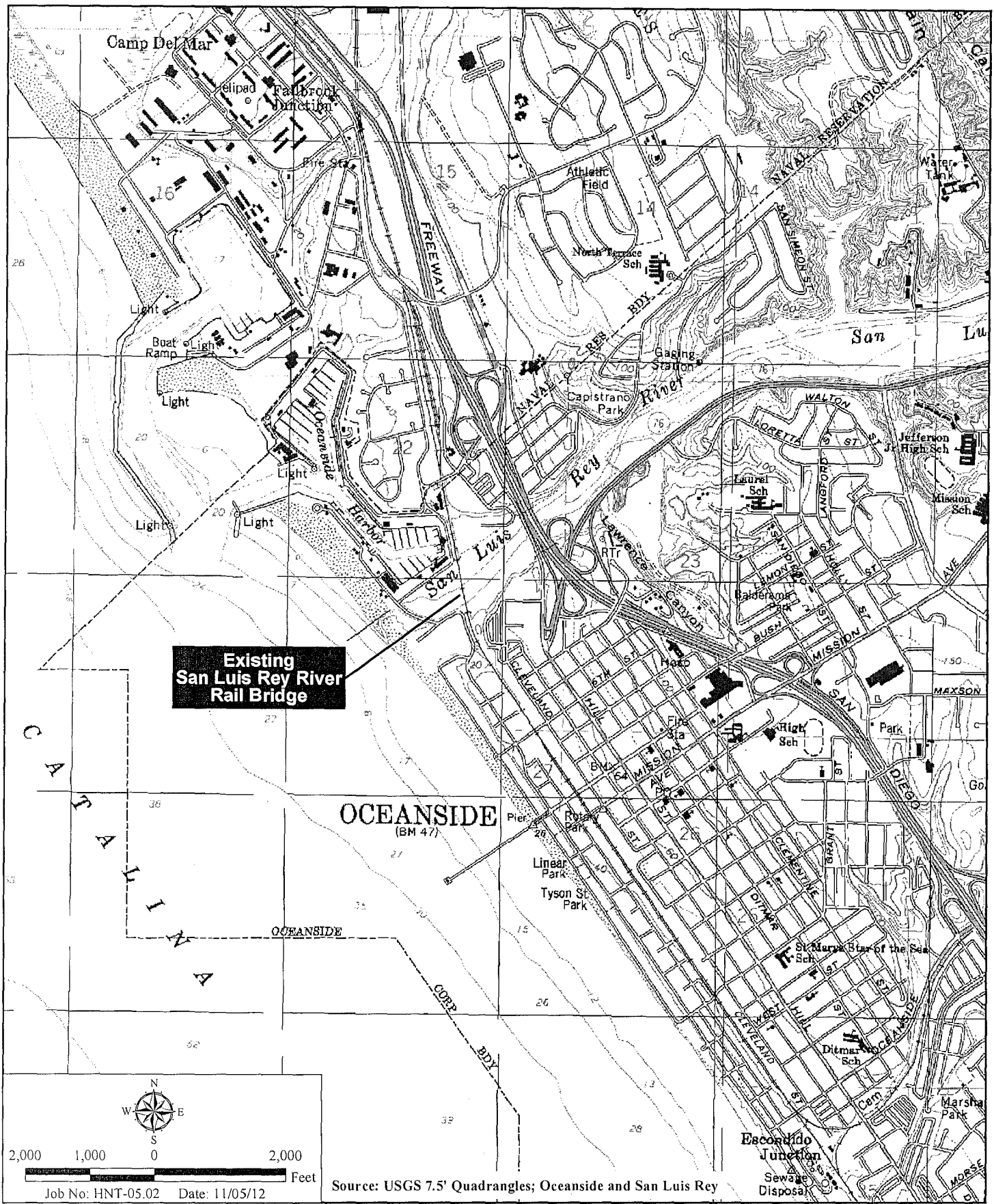
Date



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Regional Location Map
 SAN DIEGO ASSOCIATION OF GOVERNMENTS
 GEOTECHNICAL TESTING IN SUPPORT OF THE
 PROPOSED RAIL BRIDGE OVER SAN LUIS REY RIVER

Figure 1



Project Location Map

SAN DIEGO ASSOCIATION OF GOVERNMENTS
GEOTECHNICAL TESTING IN SUPPORT OF THE
PROPOSED RAIL BRIDGE OVER SAN LUIS REY RIVER

Figure 2



Federal Wetlands

SAN DIEGO ASSOCIATION OF GOVERNMENTS
GEOTECHNICAL TESTING IN SUPPORT OF THE PROPOSED RAIL BRIDGE OVER SAN LUIS REY RIVER