



REPLY TO
ATTENTION OF

**DEPARTMENT OF THE ARMY
US ARMY CORPS OF ENGINEERS
VENTURA FIELD OFFICE
2151 ALESSANDRO DRIVE, SUITE 110
VENTURA, CA 93001**

October 9, 2013

Regulatory Division

Scott Quinnell, Senior Environmental Planner
California Department of Transportation, District 8
464 West 4th Street Fl 6, MS-822
San Bernardino, California 92401-1400

Attn: Chun-Sheng Wang

DEPARTMENT OF THE ARMY NATIONWIDE PERMIT VERIFICATION

Dear Mr. Quinnell:

I am responding to your request (file no. SPL-2013-00330-VCC) for a Department of the Army permit. Your proposed project, State Route 138 Horsethief Creek Bridge Replacement, is located in Horsethief Creek, near the City of Hesperia, San Bernardino County, California. This project would result in a discharge of dredged and/or 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. parts 323 and 330), your proposed project requires a Department of the Army permit.

I have determined construction of your proposed project would comply with Nationwide Permit (NWP) No. 33 *Temporary Construction, Access, and Dewatering*, if constructed as described in your application. Specifically, you are authorized to replace the existing Highway 138 Bridge with a new 2-lane bridge, including support piers located outside Corps jurisdiction, as depicted on the enclosed drawings. The project would result in approximately 0.16 acre of temporary impacts to wetland waters of the U.S. and 0.32 acre of temporary impacts to non-wetland waters of the U.S. due to vegetation clearing, equipment access and surface water diversion.

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 non-discretionary Special Conditions listed below:

1. This Corps permit does not authorize you to take any threatened or endangered species, in particular the arroyo toad (*Anaxyrus californicus*) or adversely modify its designated critical habitat. In order to legally take a 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 BO issued to Caltrans by the U.S. Fish & Wildlife Service (No. 8-8-11-F-6) contains mandatory terms and conditions to implement the reasonable

and prudent measures that are associated with "incidental take" that is also specified in the BO. Your authorization under this Corps permit is conditional upon your compliance with all of the mandatory terms and conditions associated with incidental take of the above-referenced BO. Failure to comply with the terms and conditions associated with incidental take of the BO, where a take of the listed species occurs, would constitute an unauthorized take, and it would also constitute non-compliance with your Corps permit. The U.S. Fish & Wildlife Service is the appropriate authority to determine compliance with the terms and conditions of its BO and with the ESA.

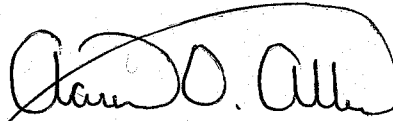
2. The permittee shall ensure all sites within waters of the U.S. subject to authorized, temporary impacts are restored to pre-project alignments, elevation contours, and conditions, including revegetation with appropriate native plant species after completion of construction in the area, as described in the conceptual mitigation plan: "SR-138 Horsethief Creek Bridge Replacement Project Landscape Removal and Restoration" (dated July 2013, and prepared by Caltrans). A final mitigation/restoration plan, including success criteria shall be submitted and approved by the Corps Regulatory Division prior to initiating work in waters of the U.S. At a minimum, 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 or a similar Corps Regulatory Division-approved functional/condition assessment method as described in the above-mentioned mitigation plan. The permittee's responsibility to complete the required restoration as set forth in this special condition shall not be considered fulfilled until the permittee has met or exceeded all final performance standards for each impact area and has obtained written confirmation from the Corps Regulatory Division 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.

This verification is valid through March 18, 2017. If on March 18, 2017 you have commenced or are under contract to commence the permitted activity you will have an additional twelve (12) months to complete the activity under the present NWP terms and conditions. However, if I discover noncompliance or unauthorized activities associated with the permitted activity we can exercise discretionary authority and thereby modify, suspend, or revoke this specific verification at an earlier date in accordance with procedures in 33 C.F.R. § 330.4(e) and 33 C.F.R. § 330.5(c) or (d). At the national level the Chief of Engineers at any time prior to the expiration of a NWP may choose to modify, suspend, or revoke the nationwide use of a NWP after following procedures set forth in 33 C.F.R. § 330.5. It is incumbent upon you to comply with all of the terms and conditions of this NWP verification and to remain informed of any change to the NWPs.

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.

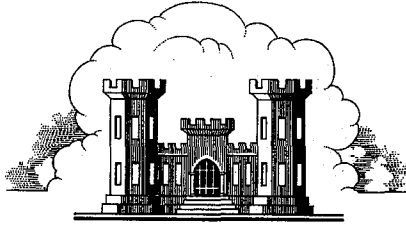
Thank you for participating in the regulatory program. If you have any questions, please contact Antal Szijj at 805-585-2147 or via e-mail at Antal.J.Szijj@usace.army.mil. Please complete the customer survey form at <http://per2.nwp.usace.army.mil/survey.html>, which would help me to evaluate and improve the regulatory experience for others.

Sincerely,

A handwritten signature in black ink, appearing to read "Aaron O. Allen". The signature is fluid and cursive, with a large loop at the end.

Aaron O. Allen, PhD
Chief, North Coast Branch
Regulatory Division

Enclosures



**LOS ANGELES DISTRICT
US ARMY CORPS OF ENGINEERS**

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

Permit Number: *SPL-2013-00330-VCC*

Name of Permittee: *Scott Quinnell, California Department of Transportation, District 8*

Date of Issuance: *October 9, 2013*

Upon completion of the activity authorized by this permit and the mitigation required by this permit, sign this certificate, and return it by **ONE** of the following methods;

- 1) Email a digital scan of the signed certificate to Antal.J.Szijj@usace.army.mil

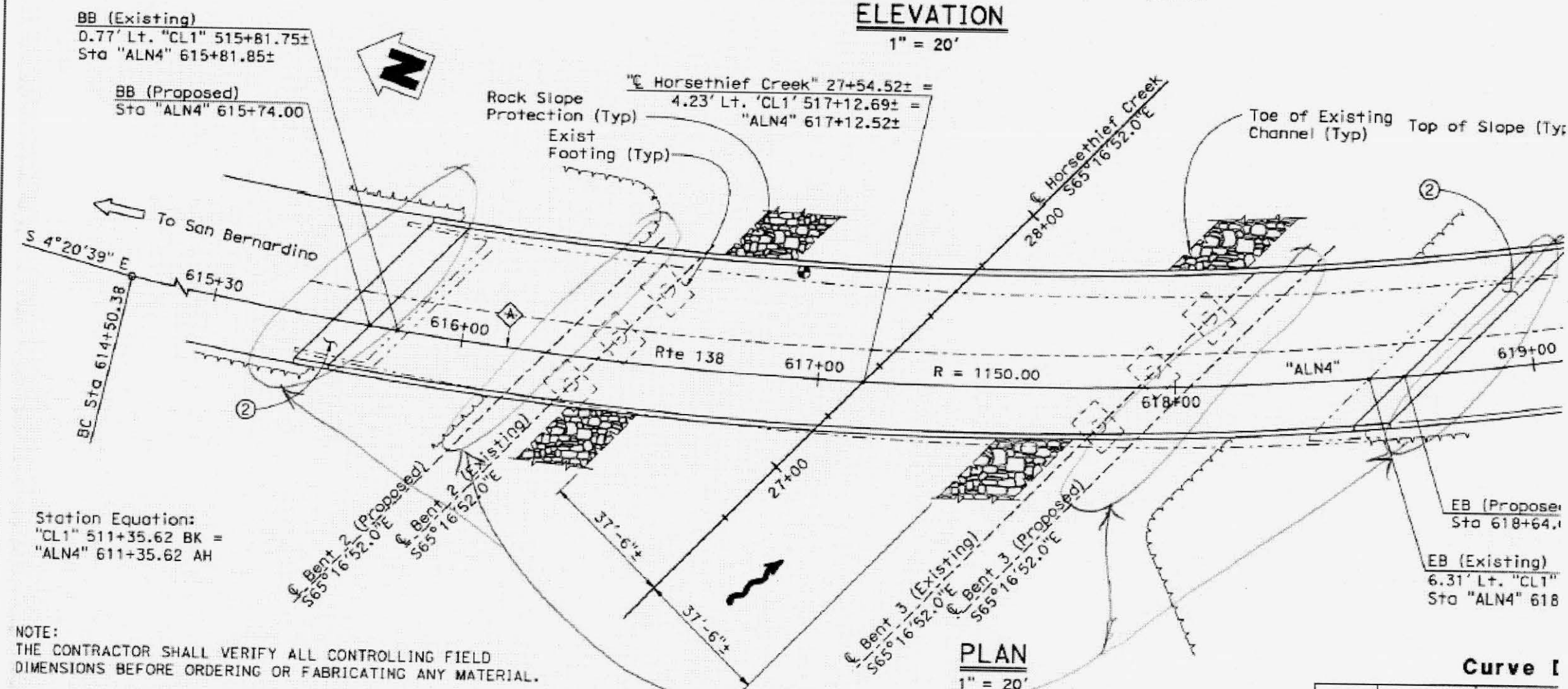
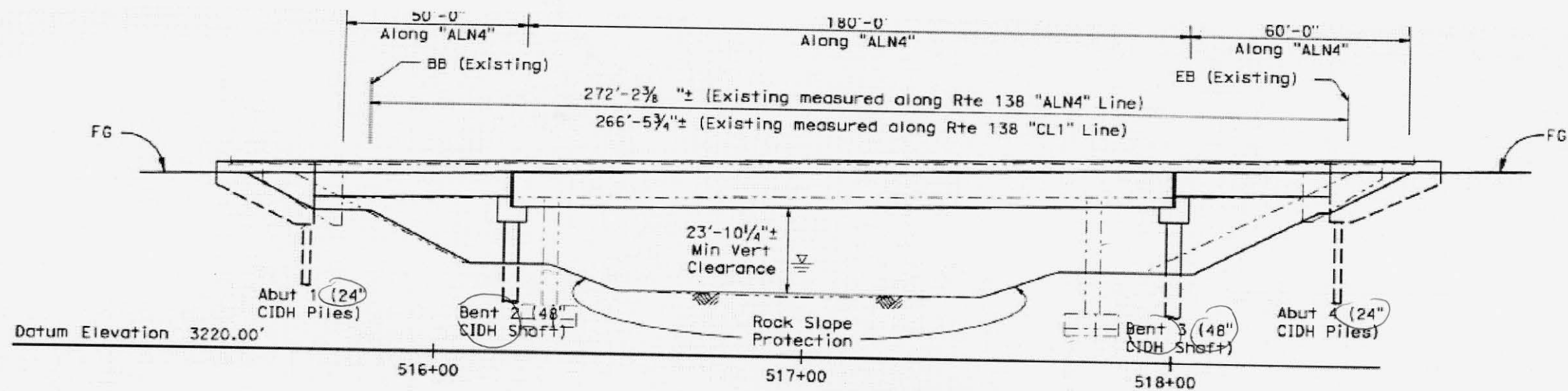
OR

- 2) Mail the signed certificate to
US Army Corps of Engineers
ATTN: Regulatory Division SPL-2013-00330-VCC
Ventura Field Office
2151 Alessandro Drive, Suite 110
Ventura, CA 93001

I hereby certify the authorized work and any required compensatory mitigation has been completed in accordance with the NWP authorization, including all general, regional, or activity-specific conditions. Furthermore, if credits from a mitigation bank or in-lieu fee program were used to satisfy compensatory mitigation requirements I have attached the documentation required by 33 CFR 332.3(l)(3) to confirm the appropriate number and resource type of credits have been secured.

Signature of Permittee

Date



Location of log of test Borings.

Curve I

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④	1150.0 ±	19°43'04"

