



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

September 3, 2014

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

DEPARTMENT OF THE ARMY NATIONWIDE PERMIT VERIFICATION

Dear Mr. Dallas:

I am responding to your request, dated July 9, 2013 as amended August 11, 2014, for a Department of the Army permit (Corps File No. SPL-2013-00530-TS). Your proposed project, the Tajiguas Creek Fish Passage Improvement Project at U.S. 101 at Post Mile 38.8, is located near Gaviota west of the City of Goleta, Santa Barbara County, California.

As proposed, this project would result in a discharge of dredged and/or fill material into waters of the United States and would place structures or consist of work in or affecting navigable 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) and section 10 of the Rivers and Harbors Act (33 U.S.C. 403), 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. 3 *Maintenance*, if constructed as described in your application.

Specifically, and as shown on the attached drawing(s)/map(s), you are authorized to conduct the following regulated activities:

1. Temporarily divert and dewater an approximately 400-foot-long reach (0.015 acre) of Tajiguas Creek during the construction period. Temporary impacts in upland areas associated with a temporary equipment access road and staging area would also occur.
2. Impact approximately 0.018 acre of the existing Tajiguas Creek culvert beneath U.S. 101 to install nine (9) concrete baffles and a 30-foot-long cobble-roughened channel within the existing arch culvert. The purpose of this action is to facilitate fish passage, including anadromous species (*Oncorhynchus mykiss*) through the culvert.

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. 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 memorandum including the following information:
 - A) Date(s) 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 photopoints) taken at the project site before and after construction for those aspects directly associated with all permanent and temporary 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).
2. The Permittee shall clearly mark the limits of the workspace with flagging or similar means to ensure mechanized equipment does not enter avoided waters of the U.S. and riparian wetland/habitat areas shown on Construction Drawing Nos. C-2 and C-4 (attached). Adverse impacts to waters of the U.S. beyond the Corps Regulatory Division-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.
3. This Corps permit does not authorize you to take any threatened or endangered species, in particular the California red-legged frog (*Rana draytonii*), southern California steelhead (*Oncorhynchus mykiss*) or tidewater goby (*Eucyclogobius newberryi*) or adversely modify designated critical habitat for any of these species. 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 FWS BO for California red-legged frog (8-8-13-F-45, dated December 6, 2013) (enclosed) 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 regulatory Division permit is conditional upon your compliance with all of the mandatory terms and conditions associated with incidental take of the attached BO, terms and conditions of which are incorporated by reference in this permit. 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 Regulatory Division permit. The FWS is the appropriate authority to determine compliance with the terms and conditions of its BO and with the ESA.
4. 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 at 805-585-2146) and Corps' Archeology staff (Steve Dibble at 213-452-3849 or John Killeen at 213-452-3861) 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.

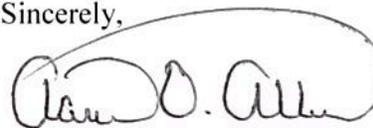
5. At the conclusion of the project, all temporary fill shall be removed and the area shall be restored to pre-construction conditions (contours and vegetated condition) to the maximum extent practicable. The Permittee shall seed disturbed portions of the earthen stream banks with native, non-invasive vegetation of facultative upland (FACU) or wetter species, as appropriate. The Permittee shall submit the proposed native seed palette for review and approval by the Corps Regulatory Division, prior to initiation of construction. The Permittee shall ensure the seeded areas are maintained and monitored for a period of two (2) years after completing seeding activities. Monitoring reports shall be submitted by the Permittee to the Corps, by May 15th annually, one and two years following seeding, documenting the recovery of the restored areas.

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 chose 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 Theresa Stevens, Ph.D. at 805-585-2146 or via e-mail at theresa.stevens@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 written in a cursive style with a large, sweeping loop at the end.

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

Enclosure(s) Nationwide Permit General Conditions
US FWS Biological Opinion
Design drawings



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

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

Permit Number: *SPL-2013-00530-TS*

Name of Permittee: *California Department of Transportation District 5*

Date of Issuance: *September 3, 2014*

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 theresa.stevens@usace.army.mil

OR

2) Mail the signed certificate to
U.S. Army Corps of Engineers
Los Angeles District
Regulatory Division
ATTN: SPL-2013-00530-TS
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(1)(3) to confirm the appropriate number and resource type of credits have been secured.

Signature of Permittee

Date