



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY

LOS ANGELES DISTRICT, CORPS OF ENGINEERS
CARLSBAD FIELD OFFICE
5900 LA PLACE CT., SUITE 100
CARLSBAD, CA 92008

December 4, 2013

Regulatory Division

Unified Port of San Diego (Port)
Attn: Eileen Maher
Environmental and Land Use Management
P.O. Box 120488
San Diego, CA 92120-0488

DEPARTMENT OF THE ARMY NATIONWIDE PERMIT VERIFICATION

Dear Ms. Maher:

I am responding to your letter request dated August 9, 2013 (SPL-2013-00575-RRS) for a Department of the Army Nationwide Permit No. (NWP) 12 - *Utility Line Activities* permit verification. Your proposed project, the J Street Off-Site Drainage Improvements Project (project), is located at J Street just west of Bay Boulevard in the City of Chula Vista, San Diego County, California.

This project would result in a discharge of dredged and/or fill material below 5 ft. Mean Lower Low Water (MLLW) into waters of the United States as a proposed outfall in the project would discharge fill below the High Tide Line at 7.79 ft. MLLW within the J Street concrete channel which has been determined to be non-wetlands waters of the U.S. in close proximity to navigable waters of San Diego Bay. 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 Department of the Army authorization.

I have determined construction of your proposed project would comply with NWP Nos.12 *Utility Line Activities*, 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:

To construct a new 30 inch storm drain and outfall into an existing concrete lined channel as a part of the J Street Off-site Drainage Improvements Project (Project). The Project would install 1,100 linear feet of new 30 inch and 36 inch storm drain pipe with a new 30 inch outlet that will discharge into the existing concrete-lined trapezoidal J Street channel on the eastern shore of San Diego bay just west of Bay Blvd., in the City of Chula Vista, San Diego County, CA. Trenching to install the storm drain will range from 5 to 11 feet below grade with the bottom elevation of the outfall at 5 ft. MLLW. Two existing storm drains and one sewer pipe

will be abandoned in place. The authorized project would permanently impact .025 acres and temporarily impact .05 acres of non-wetland waters of the United States.

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:

Special Conditions:

1. Prior to initiating construction in waters of the U.S., the Permittee shall submit to the Corps Regulatory Division a complete set of final detailed grading/construction/dredging plans showing all work and structures in waters of the U.S. that shall conform to the attached permit drawings. All plans shall be in compliance with the Final Map and Drawing Standards for the Los Angeles District Regulatory Division dated September 21, 2009

(http://www.spl.usace.army.mil/regulatory/pn/SPL-RG_map-drawing-standard_final_w-fig.pdf).

All plan sheets shall be signed, dated, and submitted on paper no larger than 11x 17 inches. No work in waters of the U.S. is authorized until the Permittee receives, in writing (by letter or e-mail), Corps Regulatory Division approval of the final detailed grading/construction plans. The Permittee shall ensure that the project is built in accordance with the Corps-approved plans.

2. 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 permanent 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).

3. No earthwork is authorized by this Nationwide Permit verification letter except for what is approved.

4. No other modifications or work shall occur to the structure permitted herein.

5. The Permittee shall discharge only clean construction materials suitable for use in the concrete channel project area during construction. 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. The Permittee shall notify the Corps Regulatory Division of the date of commencement of operations prior to commencing work, and shall notify the Corps of the date of completion of operations at least five calendar days prior to such completion.

7. Within 30 calendar days of completion of the project authorized by this permit, the Permittee shall conduct a post-project survey indicating changes to structures and other features in navigable waters. The Permittee shall forward a copy of the survey, as well as a copy of this permit, to the Corps Regulatory Division (via e-mail at: Regulatory.SPL@usace.army.mil) and to the National Oceanic and Atmospheric Administration for updating nautical charts (via e-mail at: john.whiddon@noaa.gov). Post-project surveys/as-built plans should be provided electronically in two formats: .pts (xyz) and one of, .pdf, CAD, or GIS. Include the following header metadata: project name, surveyor's name and company, area surveyed (acres), type of survey method, date of survey, geographic control points (for example: latitude/longitude, plane coordinates), geographic coordinate system (use NAD83), geographic projection, units (use US Survey Feet), and tide gage location. For all subsurface structures and dredge projects include elevation (z coordinate) datum indicated as a negative below MLLW, and also indicate the multi-beam system and bin sizes.

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.

9. This Corps permit does not authorize you to take any threatened or endangered species, in particular the California least tern (*Sterna antillarum brownii*, "tern"). 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).

10. The Permittee shall implement and abide by the CZMA Coastal Development Permit for the Port Master Plan from the California Coastal Commission as implemented in the Port's coastal determination dated June 27, 2013.

11. The Permittee shall implement and abide by the EFH determination for the project from NMFS as outlined in their EFH determination in their email dated September 26, 2013

12. The Corps is in agreement with Port's determination that the project would result in "no historic properties affected." Pursuant to 36 C.F.R. Section 800.13, work may stop in the event of any discoveries during construction of either human remains, archeological or other properties

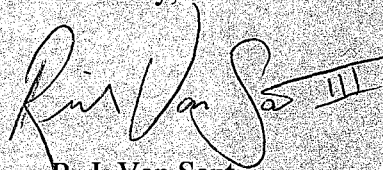
surrounding the potential cultural resources until the Corps Regulatory Division re-authorizes project construction, per 36 C.F.R. Section 800.13.

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 Robert Smith at (760) 602-4831 or via e-mail at Robert.R.Smith@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 that reads "R. J. Van Sant III". The signature is written in a cursive style with a long horizontal line extending from the end.

R. J. Van Sant
Senior Project Manager
Regulatory Division

Enclosure(s)



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

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

Permit Number: *SPL-2013-00575-RRS*

Name of Permittee: *Unified Port of San Diego*

Date of Issuance: *December 4, 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 Robert.R.Smith@usace.army.mil
OR

2) Mail the signed certificate to

U.S. Army Corps of Engineers
ATTN: Regulatory Division SPL-2013-00575-RRS
Carlsbad Field Office
5900 La Place Ct., Suite 100
Carlsbad, CA 92008

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