



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT CORPS OF ENGINEERS
REGULATORY DIVISION, CARLSBAD FIELD OFFICE
5900 LA PLACE COURT
SUITE 100
CARLSBAD, CALIFORNIA 92008

November 14, 2013

Regulatory Division

Mr. Rob Rundle
San Diego Association of Governments (SANDAG)
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-2013-00753-CMS) for a Department of the Army (DA) permit. Your proposed project, the San Diego River Double Track Geotechnical Borings, would result in a discharge of dredged and/or fill material into waters of the United States (U.S.). Therefore, pursuant to section 404 of the Clean Water Act (CWA) (33 U.S.C. 1344; 33 C.F.R. parts 323 and 330), your proposed project requires a DA permit. The San Diego River Double Track Geotechnical Borings Project is located within the existing railroad right-of-way (ROW) just north of Interstate 8, east of Pacific Highway and west of Morena Boulevard in the San Diego River, San Diego, California.

The U.S. Army Corps of Engineers Regulatory Division (Corps) has determined construction of your proposed project would comply with the terms and conditions of Nationwide Permit (NWP) No. 6, Survey Activities, if constructed as described in your application.

While this activity meets the general terms and conditions for authorization under NWP No. 6, Survey Activities, we note that you do not have Section 401 water quality certification from the California Regional Water Quality Control Board (RWQCB) or Coastal Zone Management (CZM) consistency concurrence from the California Coastal Commission (CCC). According to 33 C.F.R. 330.4, a water quality certification pursuant to Section 401 of the CWA, or waiver thereof, is required prior to authorization of your project. You must therefore obtain Section 401 water quality 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 NWP authorization. Additionally, by Federal law, no DA permit can be issued until the state has concurred with a permit applicant's CZM consistency certification. This requirement can be satisfied by obtaining CZM consistency concurrence, or

providing evidence that 6 months have passed since you applied to the CCC for concurrence. Be aware that any conditions on your CZM consistency concurrence will become conditions on your DA permit, unless the Corps deems these conditions to be either unreasonable or unenforceable.

Enclosed is a provisional NWP authorization letter. This provisional permit authorization letter is NOT VALID and does not constitute authorization for you to do work. This provisional permit authorization letter describes the work that will be authorized, including general and special conditions which will be placed on your final NWP authorization letter, if you receive a Section 401 water quality certification from the RWQCB and CZM consistency certification from the CCC. No work is to be performed until you have received a validated copy of the NWP authorization letter.

When you receive your Section 401 certification or waiver (or when 60 days have passed since you applied) and your CZM consistency certification (or when 6 months have passed since you applied), you should contact the Corps Project Manager for this project, Courtney Stevens at 760-602-4841 or via email at Courtney.M.Stevens@usace.army.mil. Please reference application SPL-2013-00753-CMS in your letter. Your authorization could then be issued without further delay or processing.

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

1. Conduct geotechnical testing of the area immediately adjacent to the existing rail bridge over the San Diego River. The geotechnical testing is in support of the proposed new rail bridge of the San Diego River for the San Diego River Double Track Project. The purpose of the geotechnical testing is to determine the type of geotechnical formations and soils that would be encountered during the construction of a new rail bridge. A total of 22 borings are proposed; nine are located in waters of the U.S. The other 13 borings are located in developed areas north and south of the river. The boring locations and associated access routes to the borings are shown on Figure 2, Geotechnical Boring Locations and Access Routes.
2. The nine borings in the San Diego River channel will be performed within the existing railroad ROW; with only a portion of the access route from the east located outside of the railroad ROW. Five borings on the south side of the low-flow channel will be accessed from Hotel Circle Place via an existing maintenance road that follows the southern edge of the San Diego River channel. The four borings located on the north side of the low-flow channel would be accessed from Friars Road. A crane will be used to lift the drill rig over the existing concrete berm along Friars Road and lower it into the river channel.
3. The drilling equipment would consist of truck-mounted drilling equipment. A standard flatbed support truck, conventional pick-up truck and limited access bobcat will also be utilized. Rotary wash drilling, cone penetration testing, and resonant sonic drilling will be utilized to conduct the borings. Work would begin in mid-November 2013 and be completed prior to March 1, 2014.

4. Authorized drilling methods include:

- a. Rotary wash drilling, which involves advancing an approximate 4-inch diameter drill bit through hollow augers to the desired depth while circulating water through drilling rods from a small holding tank. An approximate 5 square feet in size and 2 feet in height holding tank is located adjacent to the drill rig at the ground surface while the water is circulated to the bottom of the borehole through the drilling rods and back to the holding tank. There is a continuous circulation of water, which is completely contained throughout the exploration. The water will be placed in 55-gallon steel drums and taken off-site for sampling, testing and disposal.
- b. Cone Penetration Test (CPT) involves pushing an instrumented 2-inch diameter rod into the soil while displacing the in-place materials. The CPT investigation method does not generate soil cuttings during the ground penetration testing.
- c. Resonant Sonic Drilling (RSD) will collect continuous soil samples in a standard vertical configuration from the ground surface to the termination point of the borehole. The borehole diameter will be approximately 6 inches while collecting continuous soil samples through the inner core rods which will be retrieved back to the ground surface. The borehole will be backfilled simultaneously with the extraction of the drill rods to reduce the potential for soil caving within the borehole. All material from the bore hole will be collected in boxes and removed from the site.

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. Fifteen days prior to work in waters of the U.S., the Permittee shall provide written notification to the Corps of anticipated starting and completion dates of activities authorized herein.
2. One geotechnical boring occurs within potentially suitable light-footed clapper rail (*Rallus longirostris levipes*) nesting habitat (north of the river). A U.S. Fish and Wildlife Service (Service) permitted clapper rail biologist shall survey this boring site, to include a 150 foot radius around the boring site, each day that geotechnical activities are proposed within potentially suitable clapper rail habitat (north of river) to ensure that impacts to clapper rail are avoided. If clapper rails are observed during surveys, all work shall halt and not commence until the clapper rail has left the area or written approval is received from the Corps, after consultation with the Service.
3. 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 U.S. 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.

4. The Permittee shall demonstrate minimization of impacts to wetland habitat. At a minimum, photographic evidence should be provided to the Corps to demonstrate minimal alteration to sensitive wetland habitats.
5. 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 (Courtney Stevens at 760-602-4841) 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.

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 we 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 preliminary jurisdictional determination (JD) has been conducted to determine the extent of Corps' geographic jurisdiction, upon which this NWP verification is based. A preliminary JD is advisory in nature and is a written indication Corps geographic jurisdiction may be present on a particular site, but is not appealable. An approved JD is an official Corps determination of the precisely identified limits of Corps geographic jurisdiction on a particular site, and is appealable. Should you wish to appeal an approved JD, you may request an administrative appeal under Corps regulations at 33 C.F.R. Part 331. Please refer to the enclosed Notification of Appeal Process (NAP) fact sheet and Request for Appeal (RFA) form for more information.

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 Courtney Stevens at 760-602-4841 or via e-mail at Courtney.M.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 cursive script, reading "Therese O. Bradford". The signature is fluid and elegant, with a large initial "T" and a long, sweeping underline.

Therese O. Bradford
Chief, South Coast Branch

Enclosures