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24 OCT 2012



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

July 21, 2011

REPLY TO  
ATTENTION OF:

Regulatory Division

Antonio Gioiello, Chief Harbor Engineer  
Port of Los Angeles  
425 S. Palos Verdes Street, P.O. Box 151  
San Pedro, California 90733-0151

Dear Mr. Gioiello:

Reference is made to your request dated March 8, 2011 (File No. SPL-2011-00300-TS) for Department of the Army authorization to upgrade Berth 239. Under the provisions of Section 10 of the Rivers and Harbors Act of March 3, 1899 (33 U.S.C. 403), you are hereby authorized to conduct the work described below at Berth 239 in Los Angeles Harbor, Port of Los Angeles in the city and county of Los Angeles, California, as shown on the enclosed drawings.

Specifically, you are authorized to:

1. Temporarily impact approximately 3,300 square feet (or 0.076 acre) of marine substrate, of which approximately 73 square feet would be permanently impacted by new concrete piles.
2. Remove an existing 168-foot-long timber catwalk, including removal of seven (7) catwalk supports consisting of 4 timber piles and 10 concrete-encased steel "H" piles.
3. Remove the existing Mooring Point No. 1 structure, consisting of 36 steel sheet piles and 15 steel "H" piles with a concrete core.
4. Install two (2) new concrete piles and a concrete pile cap associated with a new catwalk support.
5. Install a new 90-foot-long aluminum catwalk.
6. Install 22 new concrete piles via pile driving.
7. Install a 24-foot by 8-foot concrete deck for the new Mooring Point No. 1.

The owner or authorized responsible official must sign and date all copies of this Letter of Permission (LOP) indicating that he/she agrees to the work as described and will comply with all conditions. One of the signed copies of this Letter of Permission must be returned to the Corps of Engineers. In addition, please notify this office as to the dates of commencement (within 10 days prior to the start of construction) and completion of the activity (within 10 days following the end of construction).

Furthermore, you are hereby advised that the Corps of Engineers has established an Administrative Appeal Process which is fully described in 33 CFR Part 331. The complete appeal process is diagrammed in the enclosed Appendix B.

Thank you for participating in our regulatory program. If you have any questions, please contact Theresa Stevens, Ph.D. of my staff at 805-585-2146 or via e-mail at [theresa.stevens@usace.army.mil](mailto:theresa.stevens@usace.army.mil).

Please be advised that 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>.

Sincerely,



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

Enclosure(s)

  
PERMITTEE

10/24/12  
DATE

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this LOP will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

---

TRANSFEEE

DATE

## PERMIT CONDITIONS

### General Conditions:

1. The time limit for completing the authorized activity ends on **July 21, 2013**. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. 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, Ph.D. at 805-585-2146) and Corps' Archeology Staff within 24 hours (Steve Dibble at 213-452-3849 or John Killeen at 213-452-3861). 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.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished with the terms and conditions of your permit.

Furthermore, you must comply with the following non-discretionary Special Conditions:

1. The Permittee shall clearly mark the limits of the workspace with flagging or similar means to ensure mechanized equipment does not enter preserved waters of the U.S. and riparian wetland/habitat areas. Adverse impacts to waters of the U.S. beyond the Corps-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.
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 memo indicating the date authorized impacts to waters of the U.S. ceased.

3. 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.
4. No dredging or earthwork is authorized by this Letter of Permission.
5. Creosote treated pilings shall not be placed in navigable waters unless all of the following conditions are met:
  - A) The project involves the repair of existing structures that were originally constructed using wood products;
  - B) The creosote treated pilings are wrapped in plastic;
  - C) Measures are taken to prevent damage to plastic wrapping from boat use. Such measures may include installation of rub strips or bumpers;
  - D) The plastic wrapping is sealed at all joints to prevent leakage; and
  - E) The plastic material is expected to maintain its integrity for at least ten years, and plastic wrappings that develop holes or leaks must be repaired or replaced in a timely manner by the Permittee.
6. No other modifications or work shall occur to the structure permitted herein.
7. 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 Regulatory Division, National Marine Fisheries Service (NMFS), and the California Department of Fish and Game (CDFG) 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 Regulatory Division, in consultation with NMFS and CDFG.
8. **FOR BOAT DOCKS and OTHER STRUCTURES PLACED IN WATERS OF THE US WITH THE POTENTIAL TO IMPACT EELGRASS:** Once authorized impacts to navigable waters authorized by this permit have ceased, the Permittee shall conduct two years of post-construction eelgrass monitoring surveys per the mapping guidelines in NOAA Fisheries' Southern California Eelgrass Mitigation Policy (Policy) ([http://swr.nmfs.noaa.gov/hcd/policies/EELPOLrev11\\_final.pdf](http://swr.nmfs.noaa.gov/hcd/policies/EELPOLrev11_final.pdf)). All required post-construction monitoring surveys shall be submitted by the Permittee to the Corps Regulatory Division and NMFS within 30 calendar days of each survey completion date. Based upon the post-construction monitoring survey results and in accordance with the Policy, the Corps Regulatory Division will determine the need and/or amount of Essential Fish Habitat (EFH) mitigation required to offset adverse impacts to such habitat. The Corps Regulatory Division will transmit its determination to the Permittee in writing. Within 60 calendar days of receiving the Corps Regulatory Division's determination specifying the need and amount of mitigation, the Permittee shall submit a draft EFH

mitigation plan to the Corps for review and approval. The EFH mitigation plan shall be prepared in accordance with the Policy and the Corps' Los Angeles District Mitigation Guidelines and Monitoring Requirements, dated April 19, 2004. The Permittee shall fully implement the final EFH mitigation plan as approved by the Corps Regulatory Division.

9. FOR DREDGING PROJECTS WITH THE POTENTIAL TO IMPACT EELGRASS:

Prior to each maintenance dredging event, a pre-project eelgrass survey should be conducted in accordance with the Southern California Eelgrass Mitigation Policy (SCEMP) (<http://swr.nmfs.noaa.gov/hcd/eelpol.htm>). If the pre-project survey demonstrates eelgrass presence within the project vicinity, a post-project survey should be conducted and impacts to eelgrass mitigated in accordance with the SCEMP.

10. 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.

11. The Permittee shall notify the Corps Regulatory Division of the date of commencement of operations not less than 14 calendar days 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.

12. 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](mailto: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](mailto: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.

13. 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 to the Corps Regulatory Division and to the National Oceanic and Atmospheric Service for chart updating: Gerald E Wheaton, NOAA, Regional Manager, West Coast and Pacific Ocean, DOD Center Monterey Bay, Room 5082, Seaside, CA 93955-6711.

14. 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.

**Further Information:**

1. **Congressional Authorities:** You have been authorized to undertake the activity described above pursuant to **Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403)**.

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal project.

3. **Limits of Federal Liability.** In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. **Reliance on Applicant's Data:** The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. **Reevaluation of Permit Decision.** This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:



- a. You fail to comply with the terms and conditions of this permit.
- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measure ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give you favorable consideration to a request for an extension of this time limit.

LOS ANGELES DISTRICT  
U.S. ARMY CORPS OF ENGINEERS

NOTIFICATION OF COMMENCEMENT OF WORK  
FOR  
DEPARTMENT OF THE ARMY PERMIT

**Permit Number:** *SPL-2011-00300-TS*  
**Name of Permittee:** *Port of Los Angeles - Antonio Gioiello, Chief Harbor Engineer*  
**Date of Issuance:** *July 21, 2011*

**Date work in waters of the U.S. will commence:**

**Estimated construction period (in weeks):**

**Name & phone of contractor (if any):**

Please note that your permitted activity is subject to a compliance inspection by an Army Corps of Engineers representative. If you fail to comply with this permit you may be subject to permit suspension, modification, or revocation.

I hereby certify that I, and the contractor (if applicable), have read and agree to comply with the terms and conditions of the above referenced permit.

\_\_\_\_\_  
Signature of Permittee

\_\_\_\_\_  
Date

At least ten (10) days prior to the commencement of the activity authorized by this permit, sign this certification and return it using any ONE of the following three (3) methods:

(1) E-MAIL a statement including all the above information to:  
[theresa.stevens@usace.army.mil](mailto:theresa.stevens@usace.army.mil)

OR

(2) FAX this certification, after signing, to: 805-585-2154

OR

(3) MAIL to the following address:

U.S. Army Corps of Engineers  
Regulatory Division  
ATTN: CESPL-RG-SPL-2011-00300-TS  
2151 Alessandro Drive, Suite 110  
Ventura, CA 93001

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

**NOTIFICATION OF COMPLETION OF WORK AND  
CERTIFICATION OF COMPLIANCE WITH  
DEPARTMENT OF THE ARMY PERMIT**

**Permit Number:** *SPL-2011-00300-TS*  
**Name of Permittee:** *Port of Los Angeles - Antonio Gioiello, Chief Harbor Engineer*  
**Date of Issuance:** *July 21, 2011*

**Date work in waters of the U.S. completed:**

\_\_\_\_\_  
**Construction period (in weeks):**

\_\_\_\_\_  
**Name & phone of contractor (if any):**

Please note that your permitted activity is subject to a compliance inspection by an Army Corps of Engineers representative. If you fail to comply with this permit you may be subject to permit suspension, modification, or revocation.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of said permit.

\_\_\_\_\_  
Signature of Permittee

\_\_\_\_\_  
Date

Upon completion of the activity authorized by this permit, sign this certification and return it using any ONE of the following three (3) methods:

(1) E-MAIL a statement including all the above information to:  
[theresa.stevens@usace.army.mil](mailto:theresa.stevens@usace.army.mil)

OR

(2) FAX this certification, after signing, to: 805-585-2154

OR

(3) MAIL to the following address:

U.S. Army Corps of Engineers  
Regulatory Division  
ATTN: CESPL-RG-SPL-2011-00300-TS  
2151 Alessandro Drive, Suite 110  
Ventura, CA 93001

Applicant: Antonio Gioiello, Port of Los Angeles		File Number: SPL-2011-00300-TS	Date: July 21, 2011
Attached is:			See Section below
X	INITIAL PROFFERED PERMIT (Letter of permission)	A	
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B	
	PERMIT DENIAL	C	
	APPROVED JURISDICTIONAL DETERMINATION	D	
	PRELIMINARY JURISDICTIONAL DETERMINATION	E	

**SECTION I:** The following outlines your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://usaace.army.mil/inet/functions/cw/ccwo/reg> or Corps regulations at 48 CFR Part 33J.

**A: INITIAL PROFFERED PERMIT:** You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

**B: PROFFERED PERMIT:** You may accept or appeal the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**C: PERMIT DENIAL:** You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**D: APPROVED JURISDICTIONAL DETERMINATION:** You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**E: PRELIMINARY JURISDICTIONAL DETERMINATION:** You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

**SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT**

**REASONS FOR APPEAL OR OBJECTIONS:** (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

**ADDITIONAL INFORMATION:** The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

**POINT OF CONTACT FOR QUESTIONS OR INFORMATION**

If you have questions regarding this decision and/or the appeal process you may contact:

DISTRICT ENGINEER  
Los Angeles District, Corps of Engineers  
ATTN: Chief, Regulatory Division  
P.O. Box 532711  
Los Angeles, CA 90053-2325  
Tel. (213) 452-3425

If you only have questions regarding the appeal process you may also contact:

DIVISION ENGINEER  
South Pacific Division, Corps of Engineers  
Attn: Tom Cavanaugh  
Administrative Appeal Review Officer,  
U.S. Army Corps of Engineers  
South Pacific Division, CESP-D-PDS-O, 2052B  
1455 Market Street, San Francisco, California 94103-1399  
Phone: (415) 503-6574 Fax: (415) 503-6646  
Email: thomas.j.cavanaugh@usace.army.mil

**RIGHT OF ENTRY:** Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

\_\_\_\_\_  
Signature of appellant or agent.

Date:

Telephone number:



### Applicant Options with Initial Proffered Permit

