



DEPARTMENT OF THE ARMY

U.S. Army Corps of Engineers, Los Angeles District

Regulatory Division

Ventura Field Office

2151 Alessandro Drive, Suite 110

Ventura, California 93001

May 27, 2009

REPLY TO

ATTENTION OF:

Office of the Chief
Regulatory Division

DEPARTMENT OF THE ARMY NATIONWIDE PERMIT AUTHORIZATION

Antonio V. Gioiello, Chief Harbor Engineer
Los Angeles Harbor Department, Engineering Division
425 South Palos Verdes Street
San Pedro, California 90731

Dear Mr. Gioiello:

This correspondence is in reply to your April 11, 2008 application (No. 2003-1083-SDM) and April 10, 2009 amendment to your application concerning our permit authority under Section 10 of the River Harbor Act (33 U.S.C. 403) over your proposal to temporarily impact approximately 0.1 acre of navigable waters of the U.S. associated with modifying the rock groin (removing rock) at the north end of Inner Cabrillo Beach, along Los Angeles Harbor, in the community of San Pedro, Los Angeles County, California.

The Corps of Engineers has determined your proposed activity complies with the terms and conditions of Nationwide Permit Number 33: *Temporary Construction, Access, and Dewatering* (Section 10), as described in enclosure 1.

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

1. All work shall be done with land-based equipment. No work is authorized with water-based equipment, and no discharge of fill (e.g., recontouring the exposed substrate following removal of groin-associated rock) into waters of the U.S. is authorized.
2. The permittee shall implement and maintain Best Management Practices throughout project activities, including those specified in the April 10, 2009 amendment to your application (i.e., stake shoreline perimeter of eelgrass bed; perform periodic eelgrass/least

tern monitoring; do not allow construction equipment in the eelgrass area; and monitor the project site daily).

3. The permittee shall ensure all project staging and storage (including temporary rock storage within a 200 foot by 100 foot area) occur outside of waters of the U.S. (i.e., above +7.0 MLLW at this location) and at a sufficient distance and manner that no fill or spoil material, debris, trash, lubricant, or fuel can be conveyed to waters of the U.S.
4. Prior to initiating project activities, the permittee shall provide a brief/tailgate-style training session with the construction contractors and personnel to review all permit terms and conditions and to ensure they are made aware of the sensitive biological resources in or adjacent to the project area. The latter shall include a biologist-led discussion of the sensitive biological resources present or with potential to occur in or adjacent to the project area, including showing all project contractors and personnel photographs of each biological resource (including eelgrass, California least tern, and California brown pelican).
5. Throughout project activities, the permittee shall maintain onsite a copy of all permits, including all terms and conditions, and photographs of each biological resource present or with potential to occur in or adjacent to the project area. The permittee shall ensure all project contractors and personnel have reviewed and understand all permit terms and conditions and are aware of all sensitive biological resources present or with potential to occur in or adjacent to the project area; this includes any individuals who were unable to participate in the brief/tailgate-style training session or were added later during project construction or operation.
6. A pre-construction survey for *Caulerpa taxifolia* (Caulerpa) of the project area shall be conducted in accordance with the Caulerpa Control Protocol (see <http://swr.nmfs.noaa.gov/hcd/caulerpa/ccp.pdf>) within 90 days of beginning the groin modification activities. The results of that survey shall be furnished to the Corps, National Marine Fisheries Service, 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, in consultation with National Marine Fisheries Service and CDFG.
7. The permittee's qualified eelgrass biologist shall complete a pre-project eelgrass survey of the project area within 90 days of initiating project activities, and shall also complete a post-project eelgrass survey of the project area within 90 days of completing project activities to determine whether project activities impacted eelgrass habitat. All eelgrass surveys shall be conducted in accordance with the Southern California Eelgrass Mitigation Policy (http://swr.nmfs.noaa.gov/hcd/policies/EELPOLrev11_final.pdf). Any impacts identified by the surveys shall be mitigated by the permittee in accordance with the above-mentioned policy and in coordination with the Corps and NMFS.

8. The permittee shall retain a qualified California least tern biologist to monitor for this species beginning two weeks prior to initiating project activities to determine the frequency and intensity of California least tern use of the project area at that time. If California least terns are using the project area at a frequency or intensity greater than indicated by recent surveys (i.e., more than 6 California least tern dives, or more than 6 California least terns roosting in the nearby sand replacement area during a one-hour period), then the permittee shall immediately notify the Corps Regulatory Division and the Carlsbad Office of the U.S. Fish and Wildlife Service to determine if additional avoidance measures need to be incorporated into the project. The permittee's California least tern biologist shall also monitor the project area a minimum of twice weekly for one-hour periods during project activities to determine whether project activities appear to be adversely affecting this species (roosting or foraging; no nesting habitat is present in the project area). The permittee shall immediately report such potential California least tern effects to the Corps Regulatory Division and the Carlsbad Office of the U.S. Fish and Wildlife Service. (Note that California least tern monitoring is not required if all project activities can be completed after September 1st and before April 1st, which is the period California least terns are not expected to be present.)

9. Prior to initiating groin modification activities, the permittee shall retain a qualified eelgrass biologist to install stakes at least 2-3 meters high along the closest approach of eelgrass to the groin every 10 meters along the full length of the groin to serve as a clear visual cue to equipment operators and other construction personnel of the exact eelgrass locations. In addition, the permittee's qualified eelgrass biologist shall monitor project activities at least twice per week during the entire construction period to ensure there are no direct incursions or indirect burial of eelgrass through redeposit of material, and to ensure the stakes remain in good working order and are adequately protecting all eelgrass areas. At other times, the permittee's construction contractor shall ensure construction personnel do not enter into or affect eelgrass areas. At any time during construction, if the permittee's qualified eelgrass biologist or construction contractor determines that eelgrass has been or is being directly or indirectly affected, the permittee shall immediately notify the Corps Regulatory Division and the National Marine Fisheries Service to determine whether additional avoidance measures need to be incorporated into the project to better protect eelgrass.

10. This permit does not authorize permanent adverse impacts to aquatic resources. Based on pre- and post-project monitoring results, the Corps will determine if impacts to aquatic resources (such as eelgrass) have occurred and if mitigation is required. Any required mitigation shall be the responsibility of the permittee and failure to implement Corps-specified mitigation could result in enforcement proceedings.

11. The permittee shall establish a safety flag or fence perimeter of the groin modification/removal area, including the 200 foot by 100 foot temporary rock storage

area, and monitor the premises to protect the general public from construction hazards and equipment.

12. At the conclusion of project activities, the permittee shall restore the temporary rock storage area on Inner Cabrillo Beach to pre-project elevations and conditions, and shall also remove all fencing, flagging, staking, and other materials and equipment used to complete project activities and restore affected areas to pre-project conditions to the extent feasible.


This letter of verification is valid through May 27, 2011. All nationwide permits expire on March 18, 2012. It is incumbent upon you to remain informed of changes to the nationwide permits. If the Corps of Engineers modifies, reissues, or revokes any nationwide permit at an earlier date, we will issue a public notice announcing the changes.

A nationwide permit does not grant any property rights or exclusive privileges. Also, it does not authorize any injury to the property or rights of others or 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 our regulatory program. If you have any questions, please contact Dr. Spencer D. MacNeil of my staff at (805) 585-2152 or spencer.d.macneil@usace.army.mil.

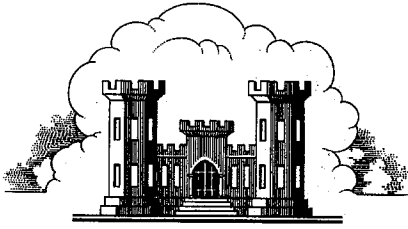
Please be advised that you can now comment on your experience with Regulatory Division by accessing the Corps web-based customer survey form at: <http://per2.nwp.usace.army.mil/survey.html>.

Sincerely,

A handwritten signature in black ink that reads "Aaron O. Allen". The signature is written in a cursive style with a large, sweeping loop over the first name.

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

Enclosure



LOS ANGELES DISTRICT
U.S. ARMY CORPS OF ENGINEERS

CERTIFICATION OF COMPLIANCE WITH
DEPARTMENT OF THE ARMY NATIONWIDE PERMIT

Permit Number: *SPL-2003-01083*

Name of Permittee: *Los Angeles Harbor Department
(Antonio V. Gioiello, Chief Harbor Engineer)*

Date of Issuance: *May 27, 2009*

Upon completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to the following address:

U.S Army Corps of Engineers, Los Angeles District
Regulatory Division, Ventura Field Office (CESPL-RG-SPL-2003-01083-SDM)
2151 Alessandro Drive, Suite 110
Ventura, California 93001

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 nationwide permit you may be subject to permit suspension, modification, or revocation procedures as contained in 33 C.F.R. Section 330.5 or enforcement procedures such as those contained in 33 C.F.R. Sections 326.4 and 326.5.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of the said permit, and required mitigation was completed in accordance with the permit condition(s).

Signature of Permittee

Date