



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

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CITY OF LOS ANGELES
RECEIVED

JUN 23 2008

ENGINEERING DIVISION
HARBOR DEPARTMENT

June 11, 2008

REPLY TO

ATTENTION OF

Office of the Chief
Regulatory Division

Antonio Gioiello, Chief Harbor Engineer
Port of Los Angeles, Engineering Division
425 South Palos Verdes Street
San Pedro, California 90731-3309

Dear Mr. Gioiello:

Reference is made to your application dated November 17, 2006 for a Department of the Army (DA) Permit to discharge fill onto waters of the U.S., in association with the Inner Cabrillo Beach Sand Replacement Project. The proposed sand replacement activities would take place along Inner Cabrillo Beach in the southwest portion of the Port of Los Angeles, Los Angeles County, California.

Enclosed is a "Provisional Permit." This provisional permit is NOT VALID and does not constitute authorization for you to do work. The provisional permit describes the work that will be authorized, including general and special conditions that will be placed on your final DA permit, should you receive a Section 401 water quality certification from the California Regional Water Quality Control Board (RWQCB) and provide evidence of consistency with the California Coastal Commission-approved Port Master Plan or otherwise provide Coastal Zone Management (CZM) consistency concurrence from the California Coastal Commission (CCC). No work is to be performed until you have received a validated copy of the DA permit.

By Federal law, no DA permit can be issued until a Section 401 water quality certification has been issued (or waived) and the CCC has concurred with your CZM consistency certification or evidence is provided of consistency with a California Coastal Commission-approved Port Master Plan. These requirements can be satisfied by obtaining Section 401 certification/waiver, or evidence that 60 days have passed since you submitted a valid application to the RWQCB for water quality certification, and CZM consistency concurrence, or evidence that 6 months have passed since you applied to the CCC for concurrence. Be aware that any conditions on your Section 401 water quality certification or CZM concurrence will become conditions on your DA permit, unless the Corps of Engineers deems these conditions to be either unreasonable or unenforceable.

WHEN YOU RECEIVE SECTION 401 WATER QUALITY CERTIFICATION/WAIVER AND CZM CONSISTENCY CONCURRENCE/EVIDENCE OF CONSISTENCY WITH THE CALIFORNIA COASTAL COMMISSION-APPROVED PORT MASTER PLAN, THE FOLLOWING STEPS NEED TO BE COMPLETED:

1. The owner or authorized responsible official must sign and date both copies of the provisional permit indicating that he/she agrees to comply with all conditions stated in the permit.
2. The signer's name and title (if any) must be typed or printed below the signature.
3. Both signed provisional permits must be returned to the Corps of Engineers at the above address (Attention: CESPL-RG).
4. The Section 401 water quality certification and CZM concurrence/evidence of consistency with the California Coastal Commission-approved Port Master Plan must be sent to the Corps of Engineers with the signed provisional permits.

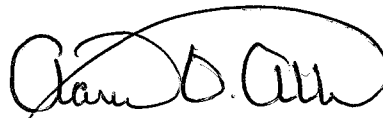
Should the Section 401 water quality certification and/or CZM concurrence/evidence of consistency with the California Coastal Commission-approved Port Master Plan contain conditions that might result in a modification to the provisional permit, by signing and dating both copies of the provisional permit and returning them to the Corps of Engineers (along with Section 401 water quality certification and CZM concurrence/evidence of consistency with the California Coastal Commission-approved Port Master Plan), we will assume you agree to comply with all Section 401 water quality certification and CZM concurrence/consistency with the California Coastal Commission-approved Port Master Plan conditions, which are added to the provisional permit.

Should either the RWQCB deny water quality certification or the CCC not concur with your consistency determination/you cannot provide evidence of consistency with the California Coastal Commission-approved Port Master Plan, then the DA permit is considered denied without prejudice. If you subsequently obtain Section 401 water quality certification and CZM concurrence/evidence of consistency with the California Coastal Commission-approved Port Master Plan, you should contact this office to determine how to proceed with your permit application.

If you have any questions, please contact Spencer MacNeil of my staff at (805) 585-2152 or via e-mail at Spencer.D.MacNeil@usace.army.mil.

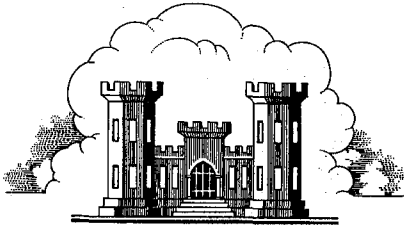
Please be advised that you can now comment on your experience with Regulatory Division by accessing the Corps web-based customer survey form at:
<http://per2.nwp.usace.army.mil/survey.html>.

Sincerely,

A handwritten signature in black ink, appearing to read "Aaron O. Allen". The signature is fluid and cursive, with a large loop at the end.

Aaron O. Allen, PhD
Chief, North Coast Branch
Regulatory Division

Enclosure(s)



LOS ANGELES DISTRICT
U.S. ARMY CORPS OF ENGINEERS

DEPARTMENT OF THE ARMY PERMIT

Permittee: Port of Los Angeles, Engineering Division
(Antonio Gioiello, Chief Harbor Engineer)

Permit Number: SPL-2006-01722

Issuing Office: Los Angeles District

Note: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: To temporarily impact approximately 3 acres of Inner Cabrillo Beach to replace bacteria-laden, fine-grained beach sand with clean, coarser-grained sand from +7 MLLW to 0.0 Mean Lower Low Water (MLLW) in the southwestern portion of the Port of Los Angeles, Los Angeles County, California, as shown on the attached drawings.

Specifically, you are authorized to:

1. Temporarily impact approximately 3 acres of waters of the United States between +7 MLLW and 0.0 MLLW (i.e., seaward of the high tide line to the baseline) by removing approximately 20,000 cubic yards of fine-grained and bacteria-laden beach sand, replacing it with a similar volume of clean coarse-to-fine sand, and recontouring the beach face to a stable profile along the length of Inner Cabrillo Beach
2. Recycle the removed fine-grained beach material as fill material as part of the demolition of the former coal export terminal in the Port of Los Angeles (LAXT) and/or reuse or dispose of it at another appropriate upland site.

Project Location: The proposed work will occur along Inner Cabrillo Beach, inside of the San Pedro Breakwater, in the southwestern portion of the Port of Los Angeles, in Los Angeles County, California (latitude: N33°-30'-42" longitude: W118°-17'-00").

Permit Conditions:

General Conditions:

1. The time limit for completing the authorized activity ends on **June 11, 2011**. 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 from this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
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. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. 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.

Special Conditions:

1. If a violation of any permit condition occurs during removal or discharge activities, the permittee shall report such violations to the Corps within twenty-four (24) hours after the violation occurs. If the permittee retains any contractors to perform any activity authorized by this permit or to monitor compliance with this permit, the permittee shall instruct all such contractors that notice of any permit violations must be provided to the permittee immediately so the permittee can report the violation as required.
2. The permittee shall maintain a copy of this permit on all vehicles used to transport, remove, or discharge material authorized under this permit.

3. Prior to initiating construction, 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).
4. The permittee shall limit beach material removal and discharge activities below the high tide line to periods of favorable (low) tides, to minimize entrainment of beach material into the near-shore tidal waters and eelgrass.
5. 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 and/or more than 6 California least terns roosting in the 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 construction to determine whether project activities appear to be adversely affecting this species. 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.)
6. To avoid accidental incursions into the eelgrass areas, prior to the initiation of project work below the high tide line (+7 MLLW), the permittee shall retain a qualified eelgrass biologist to install stakes at least 2 meters high along the shoreward limits of the eelgrass, directly offshore of 0.0 MLLW and every 20-30 meters up and down the length of the beach affected during construction activities to allow 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 deposition of beach 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.
7. In addition to the pre-project eelgrass survey recently completed, the permittee shall complete a post-project eelgrass survey 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.

8. 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.

9. The permittee shall implement all appropriate standard Best Management Practices to ensure that toxic materials, silt, debris, or excessive eroded materials do not enter waters of the U.S. (i.e., below the high tide line or +7 MLLW) due to beach material removal or discharge activities.

10. The permittee shall establish a safety flag perimeter of the beach material removal and discharge area during disposal activities, and monitor the premises to protect the general public from construction hazards and equipment.

11. No maintenance, storage, or fueling of heavy tracked equipment or vehicles shall occur within 100 feet of the high tide line of waters of the U.S.

12. The permittee shall send one (1) copy of the post-discharge report to the Los Angeles District's Regulatory Division documenting compliance with all general and special conditions defined in this permit. The post-discharge report shall be sent within 30 calendar days after completion of the discharge operations authorized in this permit. The report shall include:

- A) All information collected by the permittee as required by the special conditions of this permit. The report shall indicate whether all general and special permit conditions were met. Any violations of the permit shall be explained in detail.
- B) The post-discharge report shall include the following information:
 - i) Corps permit number.
 - ii) Identify source(s) and cubic yards of discharged material.
 - iii) Total cubic yards of excavated material disposed of at each discharge site (e.g., LAXT Terminal).
 - iv) Modes of transportation and discharge.
 - v) Percent sand, silt, and clay in the discharged material(s).
 - vi) Actual start date and completion date of transport and discharge activities.
 - vii) Monitoring results.

Further Information:

1. Congressional Authorities. You have been authorized to undertake the activity described above pursuant to:

(X) Section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403).

(X) Section 404 of the Clean Water Act (33 U.S.C. 1344).

() Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

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.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.




PERMITTEE
Antonio Gioiello
Chief Harbor Engineer

1/19/09

DATE

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

For 

Aaron O. Allen, PhD
Chief, North Coast Branch
Regulatory Division

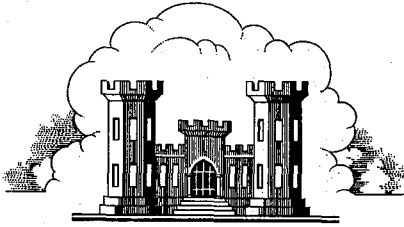
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DATE

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 permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

TRANSFEEEE

DATE



LOS ANGELES DISTRICT
U.S. ARMY CORPS OF ENGINEERS

CERTIFICATION OF COMPLIANCE WITH DEPARTMENT OF THE ARMY PERMIT

Permit Number: *SPL-2006-01722*

Name of Permittee: *Port of Los Angeles, Engineering Division
(Antonio Gioiello, Chief Harbor Engineer)*

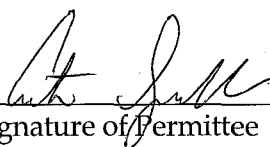
Date of Issuance: *June 11, 2008*

Upon completion of the activity authorized by this 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
ATTN: CESPL-RG-SPL-2006-01722-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 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

1/9/09

Date

