



DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, CORPS OF ENGINEERS
P.O. BOX 532711
LOS ANGELES, CALIFORNIA 90053-2325

June 8, 2012

REPLY TO
ATTENTION OF:
Office of the Chief
Regulatory Division

Mr. Paul Caron
District Biologist
California Department of Transportation, District 7
Division of Environmental Planning
100 South Main Street, Suite 100
Los Angeles, California 90012-3606

SUBJECT: Approved Jurisdictional Determination Regarding Presence/Absence of Geographic Jurisdiction

Dear Mr. Caron:

Reference is made to your February 8, 2011 request for an approved jurisdictional determination from the U.S. Army Corps of Engineers (Corps) for the Interstate 710 (I-710) Corridor Project located between Ocean Boulevard in the City of Long Beach and State Route 60 in east Los Angeles, Los Angeles County, California. Your project has been assigned Corps File No. SPL-2008-00934.

As you may know, the Corps' evaluation process for determining whether or not a Department of the Army permit is needed involves two tests. If both tests are met, then a permit is required. The first test determines whether or not the proposed project is located in a water of the United States (i.e., it is within the Corps' geographic jurisdiction). The second test determines whether or not the proposed project is a regulated activity under section 10 of the Rivers and Harbors Act or section 404 of the Clean Water Act. As part of the evaluation process, pertaining to the first test only, we have made the jurisdictional determination below.

Based on available information, including the May 2012 jurisdictional delineation (JD) report entitled "*Final Report, Jurisdictional Delineation Report, Interstate 710 Corridor Project Between Ocean Boulevard and State Route 60 Interchange, WBS ID: 165.15.10* (LSA Associates), we have determined there are waters of the United States within the project area, as well as non-jurisdictional aquatic resources in the review area depicted on the enclosed map (Enclosure 1). The basis for our determination can be found in the enclosed summary table and is documented in twenty-one separate JD forms included in the project's administrative record.

This letter contains an approved jurisdictional determination for the I-710 Corridor Project. If you object to this decision, you may request an administrative appeal under Corps regulations at 33 C.F.R. part 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet and Request for Appeal (RFA) form (Enclosure 3). If you request to appeal this decision you must submit a completed RFA form to the Corps South Pacific Division Office at the following address:


Thomas J. Cavanaugh
Administrative Appeal Review Officer
South Pacific Division, Corps of Engineers
1455 Market Street, Room 1760
San Francisco, CA 94103-1399
Tel: (415) 503-6574 Fax: (415) 503-6646

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 C.F.R. part 331.5, and that it has been received by the Division Office within 60 days of the date on the NAP. Should you decide to submit an RFA form, it must be received at the above address by **August 8, 2012**. It is not necessary to submit an RFA form to the Division office if you do not object to the decision in this letter.

This verification is valid for five years from the date of this letter, unless new information warrants revision of the determination before the expiration date. If you wish to submit new information regarding the approved jurisdictional determination for this site, please submit this information to: Susan A. Meyer at the letterhead address by **August 8, 2012**. The Corps will consider any new information so submitted and respond within 60 days by either revising the prior determination, if appropriate, or reissuing the prior determination. A revised or reissued jurisdictional determination can be appealed as described above.

If you have any questions, please contact Susan A. Meyer of my staff at (808) 835-4599 or susan.a.meyer@usace.army.mil. Please be advised that you can 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,



For Mark Cohen
Deputy Chief, Regulatory Division

Enclosures

1. Project Location Map and JD Review Area
2. Table A: Jurisdictional Summary
3. Request for Appeal Form and Administrative Appeal Process

CF (w/out enclosures):

Mr. Ron Kosinski, Caltrans, District 7

Mr. Art Homrighausen, LSA Associates, Inc.

Mr. L.B. Nye, California Regional Water Quality Control Board

ENCLOSURE 1

Project Location Map & JD Review Area

(Corps File No. SPL-2008-00934)

ENCLOSURE 2

Table A

Jurisdictional Summary of Waters of the United States

(Corps File No. SPL-2008-00934)

**Table A: Jurisdictional Summary of Waters of the United States
I-710 Corridor Project, Los Angeles County, CA (Corps File No. SPL-2008-00934)**

| Drainage Name | Location | | Jurisdictional Area ¹ (acres) | | Basis of Jurisdictional Determination ² | Authority | |
|-------------------------------------|----------|------------|---|--------------------------------------|--|-----------|----------|
| | Latitude | Longitude | Non-wetland WoUS | Wetland WoUS | | Sect. 404 | Sect. 10 |
| Los Angeles River | 33.8900 | -118.1870 | 122.66 (of which 10.85 acres are tidally influenced) | 0.60 (0.05 acre is tidal wetland) | Traditional Navigable Water (TNW). [Note: 111.81 acres are fresh waters subject to section 404 and 10.9 acres are tidal waters subject to section 10 and/or section 404 jurisdiction, including 0.05-acre tidal wetland] | ✓ | ✓ |
| Drainage 1 | 33.8213 | -118.1957 | 0.03 | 0.00 | Non-RPW with a significant nexus to a TNW | ✓ | |
| Drainage 2 | 33.8225 | -118.1965 | 0.04 | 0.00 | Non-RPW with a significant nexus to a TNW | ✓ | |
| Drainage/Basin 3 | 33.8330 | -118.2060 | 0.00 | 0.00 | Wetland basin constructed in uplands for water treatment; not considered a WoUS per 33 C.F.R. 328.3 | | |
| Drainage 4 | 33.8270 | -118.2110 | 1.04 | 0.00 | Non-RPW with a significant nexus to a TNW | ✓ | |
| Drainage 5 | 33.8260 | -118.2170 | 0.00 | 0.00 | Drainage ditch constructed in uplands; 1986 preamble | | |
| Drainage 6— Compton Creek | 33.8450 | -118.2070 | 0.56 | 2.54 | Perennial RPW flowing directly to a TNW | ✓ | |
| Drainage 7 | 33.8620 | -118.1984 | 0.00 | 0.00 | Lacks evidence of an OHWM and does not meet all 3 wetland parameters; not a WoUS per 33 C.F.R. 328.3 | | |
| Drainage 8 | 33.9122 | -118.1769 | 0.00 | 0.00 | Drainage ditch constructed in uplands; not a WoUS per 1986 preamble | | |
| Drainage 9 | 33.9296 | -118.1778 | 0.00 | 0.00 | Drainage ditch constructed in uplands; not a WoUS per 1986 preamble | | |
| Drainage 10 | 33.93146 | -118.1794 | 0.00 | 0.00 | Drainage ditch constructed in uplands; not a WoUS per 1986 preamble | | |
| Drainage 11 | 33.9310 | -118.1770 | 0.00 | 0.00 | Drainage ditch constructed in uplands; not a WoUS per 1986 preamble | | |
| Drainage 12— Rio Hondo | 33.9333 | -118.1740 | 0.39 | 0.00 | RPW (i.e., supports low flows throughout most of the year) flowing directly to a TNW | ✓ | |
| Drainage 13 | 33.9443 | -118.1727 | 0.98 | 0.00 | Non-RPW with a significant nexus to a TNW | ✓ | |
| Drainage 14 | 33.9480 | -118.1708 | 0.00 | 0.00 | Lacks evidence of OHWM; not a WoUS per 33 C.F.R. 328.3 | | |
| Drainage 15 | 33.9480 | -118.1700 | 0.00 | 0.00 | Drainage ditch constructed in uplands; not a WoUS per 1986 preamble | | |
| Drainage 16 | 33.9490 | -118.1687 | 0.00 | 0.00 | Drainage ditch constructed in uplands; not a WoUS per 1986 preamble | | |
| Drainage 17 | 33.95219 | -118.17025 | 0.00 | 0.00 | Drainage ditch constructed in uplands; not a WoUS per 1986 preamble | | |
| Drainage 18 | 33.9570 | -118.1702 | 0.00 | 0.00 | Drainage ditch constructed in uplands; not a WoUS per 1986 preamble and no evidence of an OHWM; not a WoUS per 33 C.F.R. 328.3 | | |
| Drainage 19 | 33.7682 | -118.2070 | 0.00 | 0.00 | Drainage ditch constructed in uplands; not a WoUS per 1986 preamble | | |
| Drainage 20—Los Cerritos Channel | 33.8469 | -118.1430 | 0.87 | 0.00 | Perennial RPW flowing directly to a TNW | ✓ | |
| TOTAL | | | 126.57 | 3.14 | | | |

¹ Jurisdictional area for non-wetland WoUS was calculated by ISA Associates using GIS. The area represents an approximation based on the linear distance of the drainage feature and its estimated width at the observable lateral limit (elevation) of the ordinary high water mark within the review area. For wetlands, the jurisdictional area is based on the area encompassed by the delineated wetland boundaries established in accordance with the Corps 1987 Wetlands Delineation Manual and Arid West Regional Supplement.

² All approved jurisdictional determinations have been documented using the HQUSACE "Approved Jurisdictional Determination Form" and, where required by agency guidance, preliminary/draft determinations for non-RPWs that required a significant nexus evaluation were coordinated with U.S. EPA Region IX prior to the issuance of an approved JD. All final JD forms are included in the administrative record for Corps File No. SPL-2008-00934.

RPW = Relatively permanent water; OHWM = Ordinary high water mark; WoUS = Waters of the United States; 1986_preamble = Preamble language in the 1986 regulations at 33 CFR Parts 320-330 (*Federal Register*, Regulatory Programs of the Corps of Engineers, Final Rule, p. 41217, 11/13/86).

ENCLOSURE 3

Request for Appeal Form
and
Administrative Appeal Process

**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND
REQUEST FOR APPEAL**

| | | | |
|---------------------------------|--|-----------------------------|--------------------|
| Applicant: Caltrans, District 7 | | File Number: SPL-2008-00934 | Date: June 8, 2012 |
| Attached is: | | | See Section below |
| | INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission) | | A |
| | PROFFERED PERMIT (Standard Permit or Letter of permission) | | B |
| | PERMIT DENIAL | | C |
| X | APPROVED JURISDICTIONAL DETERMINATION | | D |
| | PRELIMINARY JURISDICTIONAL DETERMINATION | | E |

SECTION I – The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://usace.army.mil/inet/functions/cw/cecwo/reg> or Corps regulations at 33 CFR Part 331.

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 FAX (213) 452-4196

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

Thomas J. Cavanaugh, Appeal Review Officer
U.S. Army Corps of Engineers, CESPDPDS-O
1455 Market Street, Room 1760
San Francisco, CA 94103-1399

TEL (415) 503-6574 FAX (415) 503-6646

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.

Date:

Telephone number:

Signature of appellant or agent.

Administrative Appeal Process for Approved Jurisdictional Determinations

