



COUNTY OF SAN LUIS OBISPO
Department of Public Works
John Diodati, *Interim Director*

Attention: Regulatory Division
U.S. Army Corps of Engineers (USACE)
450 Golden Gate Ave., 4th Floor
San Francisco, CA 94102

May 7, 2021

Subject: Request for Section 404 Authorization for the San Luis Obispo County Department of Public Works Dover Canyon Road Bridge Replacement, 300514

Dear Staff:

The San Luis Obispo County Public Works Department (County) is proposing to replace the existing bridge located on Dover Canyon Road (County Bridge No. 49C-0037) over Jack Creek in a rural area west of the city of Paso Robles, in northern San Luis Obispo County. Implementation of the project will improve access to the public and properties served by Dover Canyon Road and allow emergency vehicles, including fully loaded fire trucks, to safely cross the bridge.

The County is applying for a Nationwide Permit (NWP) from the Corps to authorize temporary and permanent impacts to a federally jurisdictional waterway that will occur from project implementation. Accordingly, we are providing a pre-construction notification and supporting information for your review under NWP 14.

The project is receiving federal funding from the U.S. Federal Highway Administration (FHWA). Therefore, the California Department of Transportation (Caltrans) District 5 Office is acting as the lead federal agency for the required consultations. A summary of the status of the other regulatory permits and authorizations required for the project is provided below.

National Environmental Policy Act (NEPA) Compliance - Caltrans prepared a Categorical Exclusion for the project pursuant to NEPA on July 6, 2020.

Section 106 of the National Historic Preservation Act - Caltrans is the lead federal agency for the Section 106 consultation for the project and on May 30, 2018 determined that the requirements of 36 CFR 800 have been fulfilled, in accordance with the January 1, 2014 *First Amended Programmatic Agreement Among the Federal Highway Administration, the Advisory Council on Historic Preservation, the CA State Historic Preservation Officer, and the CA Department of Transportation*. Caltrans, under the authority of the FHWA has made a finding of No Historic Properties Affected.

Section 7 of the Federal Endangered Species Act - Caltrans is the lead federal agency for the Section 7 consultation for the project. Caltrans received Biological Opinions (08EVEN00-2020-F-0063) from the U.S. Fish and Wildlife Service (USFWS) and (WCRO-2019-03479) from the National Marine Fisheries Service (NMFS) regarding potential impacts to federally listed species from the project.

California Environmental Quality Act (CEQA) Compliance - The County Board of Supervisors adopted the Mitigated Negative Declaration (MND) prepared for the project pursuant to CEQA on March 24, 2020.

County of San Luis Obispo Government Center

County Govt Center, Room 206 | San Luis Obispo, CA 93408 | (P) 805-781-5252 | (F) 805-781-1229
pwd@co.slo.ca.gov | slocounty.ca.gov

Central Coast Regional Water Quality Control Board (RWQCB) - An application has been concurrently submitted to the RWQCB for 401 Water Quality Certification of the project.

California Department of Fish and Wildlife (CDFW) - A notification has been submitted to the CDFW for a 1602 Streambed Alteration Agreement for the project.

Please consider the enclosed application and other supplemental materials provided for issuance of Nationwide Permit 14 for the project pursuant to Section 404 of the Clean Water Act. The project proponent hereby requests that the certifying authority review and take action on this CWA 404 certification request within the applicable reasonable period of time.

The project proponent hereby certifies that all information contained herein is true, accurate, and complete to the best of my knowledge and belief. If you have any questions or need any additional information, please contact Matthew Willis at mwillis@co.slo.ca.us or (805) 781-1952.

Sincerely,



Keith Miller
Environmental Programs Manager

Attachments:

- Nationwide Permit Pre-Construction Notification (PCN) Form
- PCN Form Additional Pages
- Project Plans
- Diversion and Dewatering Plan
- NEPA Categorical Exclusion
- Natural Environment Study with Jurisdictional Waters Assessment
- Biological Assessment with Habitat Mitigation and Monitoring Plan
- Section 7: USFWS and NMFS Biological Opinions
- Section 106 Determination (HPSR)
- Hydraulics and Floodplain Forms
- CEQA Mitigated Negative Declaration and Notice of Determination
- RWQCB Section 401 Water Quality Certification Application
- CDFW 1602 Streambed Alteration Permit Application



COUNTY OF SAN LUIS OBISPO
Department of Public Works
John Diodati, *Director*

Attention:
Jenna Rais
U.S. Army Corps of Engineers (USACE)
Regulatory Division, South Branch
450 Golden Gate Ave., 4th Floor
San Francisco, CA 94102

March 25, 2022

Subject: Reverification Request for Nationwide Permit Verification SPN-2021-00110S: County of San Luis Obispo Department of Public Works Dover Canyon Road Bridge Replacement Project

Dear Ms. Rais:

The County applied for a NWP from the Corps authorizing temporary and permanent impacts to a federally jurisdictional waterway resulting from the subject project implementation. The San Francisco District issued NWP 14 verification SPN-2021-00110S on August 9, 2021, which was valid through March 18, 2022.

The project has not gone to construction yet or even been awarded a construction contract; construction is anticipated to begin in 2023. Therefore, the County requests reverification of NWP 14 under the reissued 2021 NWPs effective on February 25, 2022. The Pre-Construction Notification for the project that was filed with your office includes the current and relevant project information.

None of the 2022 NWP Regional Conditions for the State of California apply to the project. Specifically:

1. The project will not involve new bank stabilization; a discharge of dredged or fill material on Tribal Lands; permanent channelization, realignment, or relocation of a stream; or have the potential to adversely affect Essential Fish Habitat.
2. The project is not located in the desert regions of Los Angeles District.
3. The project is not located in the Murrieta Creek or Temecula Creek watersheds.
4. The project is not located in a Special Area Management Plan area.
5. The project is not located in a watershed that triggers the need for a pre-construction notification in accordance with General Condition 32.

Additionally, General Condition 23, Mitigation, requires compensatory mitigation for stream bed losses exceeding 0.03 acre. Permanent project impacts are limited to the new bridge abutments, placement of rock slope protection, and construction of fill slopes which will result in a total 0.001-acre loss of waters of the U.S.; all temporary fills will be removed. Therefore, compensatory mitigation is not required pursuant to General Condition 23.

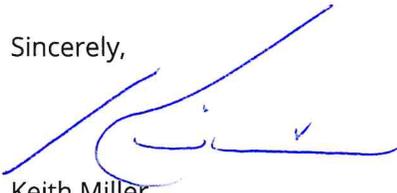
A Section 401 water quality certification (34021WQ05) was issued for the project on July 9, 2021, and is valid for five years from the date of issuance.

County of San Luis Obispo Government Center

County Govt Center, Room 206 | San Luis Obispo, CA 93408 | (P) 805-781-5252 | TTY/TRS 7-1-1
pwd@co.slo.ca.gov | slocounty.ca.gov

If you have any questions or need any additional information, please contact Matt Willis at mwillis@co.slo.ca.us or (805) 781-1952.

Sincerely,



Keith Miller
Environmental Programs Manager

U.S. Army Corps of Engineers South Pacific Division



Nationwide Permit Pre-Construction Notification (PCN)

This form integrates requirements of the U.S. Army Corps of Engineers (Corps) Nationwide Permit Program within the South Pacific Division (SPD). Boxes 1-10 must be completed to include all information required by General Condition 32. Box 11 (or other sufficient information to show compliance with all General Conditions) must be completed for activities in Arizona, California, Nevada, and Utah, and is recommended for activities in Colorado and New Mexico. If additional space is needed, please provide as a separate attachment. Please refer to the *Instructions for the South Pacific Division Nationwide Permit Pre-Construction Notification (PCN)* (Instructions) for instructions for completing the PCN, as well as additional information on the attachments and tables included with this PCN that may be used.

0. To be filled by the Corps

Application Number:	Date Received:	Date Complete:
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1. Prospective Permittee and Agent Name and Addresses (see Instructions)

a. Prospective Permittee

First - Mr. John Middle - _____ Last - Waddell
 Company - San Luis Obispo County Public Works Dept Email Address - jwaddell@co.slo.ca.us
 Address - County Government Center, Rm 206 City - San Luis Obispo State - CA Zip - 93408
 Phone (Residence/Mobile) - _____ Phone (Business) - (805) 781-5252

b. Agent (if applicable)

First - Matthew Middle - _____ Last - Willis
 Company - San Luis Obispo County Public Works Dep Email Address - mwillis@co.slo.ca.us
 Address - County Government Center, Rm 206 City - San Luis Obispo State - CA Zip - 93408
 Phone (Residence/Mobile) - _____ Phone (Business) - (805) 781-1952

c. **Statement of Authorization:** I hereby authorize Matt Willis, to act in my behalf as my agent for the proposed activity. (Optional, see instructions)

John Waddell

Signature of Applicant

12/30/2020

Date



DEPARTMENT OF THE ARMY
SAN FRANCISCO DISTRICT, U.S. ARMY CORPS OF ENGINEERS
450 GOLDEN GATE AVENUE
SAN FRANCISCO, CALIFORNIA 94102

May 23, 2022

Regulatory Division

Subject: File Number SPN-2021-00110S

Mr. John Waddell
San Luis Obispo County Public Works Department
City Government Center, Room 206
San Luis Obispo, California 93408
JWaddell@co.slo.ca.us

Dear Mr. Waddell:

This correspondence is in reference to your submittal of February 9, 2021, concerning Department of the Army (DA) authorization for the Dover Canyon Road Bridge Replacement Project. The proposed safety improvement project will replace an existing single-span, single-lane bridge with a longer single-span, double-lane bridge. The proposed project is located at an approximately 2.85-acre site located on Dover Canyon Road where the road crosses Jack Creek, in San Luis Obispo County, California (Latitude: 35.5779°, Longitude: -120.8347°). This authorization supersedes the previous authorization issued on August 9, 2021.

Work within U.S. Army Corps of Engineers' (Corps) jurisdiction will include replacing an existing single-span bridge with a longer single-span bridge that will clear Jack Creek and align the abutments with the approximate existing top of bank. The new bridge will be a two-lane bridge and will replace the existing single-lane bridge. Rock slope protection (RSP) will be installed below the ordinary high-water mark. Additionally, vegetation will be cleared, and tree removal of up to 28 native trees will be required. Work may require temporary dewatering of Jack Creek if water is present during project construction. Impacts to Corps jurisdiction will include the temporary placement of fill within 0.12 acre of stream channel for the temporary dewatering and the permanent placement of fill within 0.001 acre of stream channel for the installation of the abutments, placement of rock slope protection, and construction of the fill slopes. All work shall be completed in accordance with the plans and drawings titled "USACE File #SPN-2021-00110S, Dover Canyon Road Bridge Replacement Project, December 31, 2020, Figures 1 to 9", provided as Enclosure 1.

Section 404 of the Clean Water Act (CWA) generally regulates the discharge of dredged or fill material below the plane of ordinary high water in non-tidal waters of the United States, below the high tide line in tidal waters of the United States, and within the lateral extent of wetlands adjacent to these waters. Section 10 of the Rivers and Harbors Act (RHA) generally regulates construction of structures and work, including excavation, dredging, and discharges of dredged or fill material occurring below the plane of mean high water in tidal waters of the United States; in former diked baylands currently below mean high water; outside the limits of

mean high water but affecting the navigable capacity of tidal waters; or below the plane of ordinary high water in non-tidal waters designated as navigable waters of the United States. Navigable waters of the United States generally include all waters subject to the ebb and flow of the tide; and/or all waters presently used, or have been used in the past, or may be susceptible for future use to transport interstate or foreign commerce.

Based on a review of the information in your submittal, the project qualifies for authorization under Department of the Army Nationwide Permit (NWP) 14 for Linear Transportation Projects (86 Fed. Reg. 73522, December 27, 2021), pursuant to Section 404 of the CWA of 1972, as amended (33 U.S.C. § 1344 *et seq.*). The project must be in compliance with the terms of the NWP, the general conditions of the Nationwide Permit Program, and the San Francisco District regional conditions cited on our website (www.spn.usace.army.mil/Missions/Regulatory/Permitting/Nationwide/). You must also be in compliance with any special conditions specified in this letter for the NWP authorization to remain valid. Non-compliance with any term or condition could result in the revocation of the NWP authorization for your project, thereby requiring you to obtain an Individual Permit from the Corps. This NWP authorization does not obviate the need to obtain other State or local approvals required by law.

This verification will remain valid until March 14, 2026, unless the NWP authorization is modified, suspended, or revoked. Activities which have commenced (i.e., are under construction) or are under contract to commence in reliance upon a NWP will remain authorized provided the activity is completed within 12 months of the date of a NWP's expiration, modification, or revocation, unless discretionary authority has been exercised on a case-by-case basis to modify, suspend, or revoke the authorization in accordance with 33 C.F.R. § 330.4(e) and 33 C.F.R. § 330.5(c) or (d). This verification will remain valid if, during the time period between now and March 14, 2026, the activity complies with any subsequent modification of the NWP authorization. The Chief of Engineers will periodically review NWPs and their conditions and will decide to modify, reissue, or revoke the permits. If a NWP is not modified or reissued within five years of its effective date, it automatically expires and becomes null and void. It is incumbent upon you to remain informed of any changes to the NWPs. Changes to the NWPs would be announced by Public Notice posted on our website (www.spn.usace.army.mil/Missions/Regulatory/Public-Notices.aspx). Upon completion of the project and all associated mitigation requirements, you shall sign and return the Certification of Compliance, Enclosure 2, verifying that you have complied with the terms and conditions of the permit.

You shall comply with all terms and conditions set forth by the “*Water Quality Certification No. 34021WQ05 for Dover Canyon Road at Jack Creek Bridge Replacement Project, San Luis Obispo County*,” issued by the Central Coast Regional Water Quality Control Board on July 9,

2021 (Enclosure 3). You shall consider such conditions to be an integral part of the NWP authorization for your project.

General Condition 18 stipulates that project authorization under a NWP does not allow for the incidental take of any federally-listed species in the absence of a biological opinion (BO) with incidental take provisions. As the principal federal lead agency for this project, Caltrans initiated consultation with the United States Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) to address project related impacts to listed species, pursuant to Section 7(a) of the Endangered Species Act of 1973, as amended, 16 U.S.C. § 1531 *et seq.* By letter of November 18, 2019, the USFWS appended the project to the Programmatic Biological Opinion for Projects Funded or Approved Under the Federal Highway Administration's Federal Aid Program regarding California red-legged frog (*Rana draytonii*), cited in Enclosure 4. By letter of June 9, 2020, the NMFS issued a Biological Opinion regarding South-Central California Coast (S-CCC) steelhead (*Oncorhynchus mykiss*) cited in Enclosure 5. In addition, by letter of November 18, 2019, the USFWS concurred with the determination that the project was not likely to adversely affect the least Bell's vireo (*Vireo bellii pusillus*) and southwestern willow flycatcher (*Empidonax traillii extimus*).

In order to ensure compliance with this NWP authorization, the following special conditions shall be implemented:

1. To remain exempt from the prohibitions of Section 9 of the Endangered Species Act, the non-discretionary Terms and Conditions for incidental take of federally-listed shall be fully implemented as stipulated in the Biological Opinion titled "Endangered Species Act Section 7(a)(2) Biological Opinion for the Dover Canyon Road Bridge Replacement Project" (pages 35-38), dated June 9, 2020 (WCRO-2019-03479) (Enclosure 4) and the 2011, Programmatic Biological Opinion for Project Funded or Approved Under the Federal Highway Administration's Federal Aid Program (PBO; 8-8-10-F-58)(Service 2011) that is cited in Enclosure 5. Project authorization under the NWP is conditional upon compliance with the mandatory terms and conditions associated with incidental take. Failure to comply with the terms and conditions for incidental take, where a take of a federally-listed species occurs, would constitute an unauthorized take and non-compliance with the NWP authorization for your project. The USFWS and the NMFS are, however, the authoritative federal agencies for determining compliance with the incidental take statement and for initiating appropriate enforcement actions or penalties under the Endangered Species Act.
2. The USFWS concurred with the determination that the project was not likely to adversely affect least Bell's vireo (*Vireo bellii pusillus*) and southwestern willow flycatcher (*Empidonax traillii extimus*). This concurrence was premised, in part, on project work restrictions and the description of the proposed action outlined in

Enclosure 5. These work restrictions are incorporated as special conditions to the NWP authorization for your project to ensure unauthorized incidental take of species and loss of critical habitat does not occur.

3. Incidents where any individuals of S-CCC steelhead (*O. mykiss*) listed by NOAA Fisheries under the Endangered Species Act appear to be injured or killed as a result of discharges of dredged or fill material into waters of the United States or structures or work in navigable waters of the United States authorized by this NWP shall be reported to NOAA Fisheries, Office of Protected Resources at (301) 713-1401 and the Regulatory Office of the San Francisco District of the U.S. Army Corps of Engineers at (415) 503-6795. The finder should leave the plant or animal alone, make note of any circumstances likely causing the death or injury, note the location and number of individuals involved and, if possible, take photographs. Adult animals should not be disturbed unless circumstances arise where they are obviously injured or killed by discharge exposure, or some unnatural cause. The finder may be asked to carry out instructions provided by NOAA Fisheries, Office of Protected Resources, to collect specimens or take other measures to ensure that evidence intrinsic to the specimen is preserved.
4. All work occurring below the plane of ordinary high water shall be confined to the low-flow period, during summer months to avoid excessive sedimentation of creek waters.
5. If flowing water is present in the project reach, the creek bed shall be initially dewatered through the installation of a bypass pipe and sandbag cofferdams upstream and downstream of the project reach. The bypass pipe shall be sufficiently sized to avoid any decrease in flow velocity at its inlet or outlet. The dewatering process shall be performed in a manner to minimize any disruption or alteration of normal water flow downstream of the project.
6. Any temporary structures used to dewater the stream channel shall consist of clean washed gravel, sandbags or other non-erodible material and shall be completely removed from the work area at project completion.
7. After construction completion, any installed bypass pipe, cofferdam, or other related construction materials installed below ordinary high water shall be removed in its entirety. Excavated substrate consisting of coarse sand, gravel, and cobble may be used as backfill material for construction purposes; all other material excavated below ordinary high water, including debris, mud, silt, and organic matter, shall be hauled off-site and disposed of at an upland location not subject to Corps' regulatory authority.

8. Downstream flows shall be maintained at all times during project construction.
9. All appropriate best management practices shall be implemented throughout the project site to help minimize sediment disturbance and suspension within the water.

You may refer any questions on this matter to Jenna Rais of my Regulatory staff by telephone at 415-503-6808 or by e-mail at Jenna.S.Rais@usace.army.mil. All correspondence should be addressed to the Regulatory Division, South Branch, referencing the file number at the head of this letter.

The San Francisco District is committed to improving service to our customers. My Regulatory staff seeks to achieve the goals of the Regulatory Program in an efficient and cooperative manner while preserving and protecting our nation's aquatic resources. If you would like to provide comments on our Regulatory Program, please complete the Customer Service Survey Form available on our website: <http://www.spn.usace.army.mil/Missions/Regulatory.aspx>

Sincerely,

Katerina Galacatos, Ph.D.
South Branch Chief, Regulatory Division

Enclosures

Electronic Copies Furnished (w/ encls):

San Luis Obispo County Public Works Department, San Luis Obispo, CA (Attn. Matthew Willis, MWillis@co.slo.ca.us)

CA RWQCB, San Luis Obispo, CA (Attn. Kathleen Hicks, Kathleen.Hicks@waterboards.ca.gov)