



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

May 28, 2008

REPLY TO
ATTENTION OF

Office of the Chief
Regulatory Division

Chris Seney
Nursery Products
12277 Apple Valley Road, Suite 131
Apple Valley, California 92308

Dear Mr. Seney:

Reference is made to your request (File No. SPL-2007-01447-SLP) dated September 14, 2007, for a Department of the Army Permit jurisdictional determination for the Nursery Products Hawes Composting Facility site, located west of the City of Barstow, San Bernardino County, California (figures enclosed). As part of the permit evaluation process, we have made the jurisdictional determination below.

Based on the information furnished in your letters [including the Draft Environmental Impact Report: Nursery Products Hawes Composting Facility, prepared by URS, dated September 2006], we have determined that your proposed project would not discharge dredged or fill material into a water of the United States or an adjacent wetland. Therefore, the project is not subject to our jurisdiction under Section 404 of the Clean Water Act and a Section 404 permit would not be required from our office.

This letter contains an approved jurisdictional determination for the Nursery Products Hawes Composting Facility project. If you object to this decision, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet (Appendix A) and Request for Appeal (RFA) form. 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:

Tom Cavanaugh
Administrative Appeal Review Officer,
U.S. Army Corps of Engineers
South Pacific Division, CESPDPDS-O, 2042B
1455 Market Street, San Francisco, California 94103-1399

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 July 28, 2008. 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 Shannon Pankratz at the letterhead address by July 28, 2008. 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 Shannon Pankratz of my staff at 213.452.3412 or via e-mail at Shannon.L.Pankratz@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 "Mark Durham". The signature is written in a cursive, slightly slanted style.

Mark Durham
Chief, South Coast Branch
Regulatory Division

Enclosures