

040-23

Received
CLERK OF THE BOARD
FEB 13 2023
BOARD OF SUPERVISORS
COUNTY OF SANTA CRUZ

CALIFORNIA ENVIRONMENTAL QUALITY ACT NOTICE OF EXEMPTION

The Santa Cruz County Planning Department has reviewed the project described below and has determined that it is exempt from the provisions of CEQA as specified in Sections 15061 - 15332 of CEQA for the reason(s) which have been specified in this document.

Project Description: Stream crossing repairs & repairs within the riparian corridor necessary to support roadways – Riparian Exception Permit 231043.

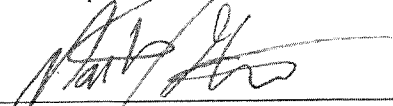
Person or Agency Proposing Project: Santa Cruz County Property Owners affected by the 2022-2023 winter storms.

- A. The proposed activity is not a project under CEQA Guidelines Section 15378.
- B. The proposed activity is not subject to CEQA as specified under CEQA Guidelines Section 15060 (c).
- C. **Ministerial Project** involving only the use of fixed standards or objective measurements without personal judgment.
- D. **Statutory Exemption** other than a Ministerial Project (CEQA Guidelines Section 15260 to 15285).

Specify type: 15269 (b). Emergency repairs to privately owned facilities necessary to maintain service essential to the public health, safety and welfare.
 15269 (c). Projects to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to the California Emergency Services Act, commencing with Section 8550 of the Government Code.

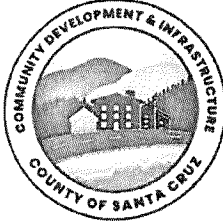
E. Reasons why the project is exempt:

On January 4th, 2023, the Governor of California, Gavin Newsom, declared a state of emergency due to damage from the winter storms throughout California. There was significant damage to Santa Cruz County roads and infrastructure on December 30th due to an Atmospheric River Winter Storm. Several more storms from December 29th-January 16th caused widespread flooding, partially due to significant debris in the waterways, mudslides and debris flows, road washouts and road collapses, and power outages throughout the County. In many cases access to private properties affected by the storms crossed streams and associated riparian corridors over culverts or bridges that were damaged or destroyed by the atmospheric river storms. These bridges and culverts must be reestablished to restore access to properties and safely clean and rebuild parcels.


Matt Johnston, Principal Planner

Date: 2/10/23

THIS NOTICE IS FILED AT THE CLERK OF THE BOARD OF SUPERVISORS OFFICE FOR A PERIOD COMMENCING 2/13/2023 AND ENDING 3/15/2023



County of Santa Cruz

Department of Community Development and Infrastructure

701 Ocean Street, Fourth Floor, Santa Cruz, CA 95060
Planning (831) 454-2580 Public Works (831) 454-2160
sccoplanning.com dpw.co.santa-cruz.ca.us

Riparian Exception Permit for Rebuilding Stream Crossings on Properties in Santa Cruz County affected by the 2022-2023 Winter Storms.

Project Description and Location

The proposed project consists of performing necessary stream crossing work in riparian corridors related to properties affected by the 2022-2023 winter storm damage in Santa Cruz County.

The project includes work related to repairing or reconstructing stream crossings such as culverts and bridges, necessary for property owners to access their properties, as well as repairs within the riparian corridor necessary to support a roadway. Work associated with such projects may include installation of water diversion systems in creeks, removal of the collapsed bridge debris and other materials from stream channels, and installation of replacement structures to restore or maintain access to private residences.

By signing on to this permit, a property owner will be permitted to conduct work necessary to reestablish stream crossings and failed roadways damaged by the 2022-2023 storm damage provided they perform that work consistent with the attached conditions. This permit does not grant state or federal permission to conduct work in a stream channel, and it is the property owner's responsibility to contact those agencies and secure those permits as necessary.

Analysis

On January 4th, 2023, the Governor of California, Gavin Newsom, declared a state of emergency due to damage from the winter storms throughout California. The Santa Cruz County declared a local emergency due to damage to county roads and infrastructure on December 30th due to an Atmospheric River Winter Storm. Several more storms from December 29th-January 16th caused widespread flooding, partially due to significant debris in the waterways, mudslides and debris flows, road washouts and road collapses, and power outages throughout the County. On January 14, 2023, President Biden approved a federal disaster declaration for California, including Santa Cruz County.

A property owner who does work within a stream channel is required to get approval from the County of Santa Cruz under chapters 16.30 and 16.32 of the County Code, as well as approval from the California Department of Fish and Wildlife (CDFW), the Regional Water Quality Control Board (RWQCB), and the U.S. Army Corps of Engineers (ACOE)

prior to conducting disturbance activities. Streams are regulated under the Clean Water Act Section 404 by USACE and Section 401 by RWQCB. The associated banks of the drainage may be subject to regulation RWQCB under the Porter-Cologne Water Quality Act as "Waters of the State", and under California Fish and Game Code Section 1602 by CDFW. In addition, many of the creeks and Riparian Corridors in the burn area are considered Environmentally Sensitive Habitat Areas (ESHA) under the California Coastal Act.

The CDFW has an emergency provision that allows for notification with 14 days of initiating the minimum work necessary to restore or stabilize access. The ACOE has Regional General Permit 5 (RGP 5) for emergency situations that allows for emergency work only after notification to, and approval by, the San Francisco office of the ACOE. Certain other agencies, including RWQCB, USFWS, NMFS are participants in this Regional Permit. There are general conditions associated with emergency construction activities, and sometimes additional measures are issued on a project by project basis. Separate notification to RWQCB is still required.

Additional information regarding outside agency permits may be found using the following web links:

ACOE: Information regarding the RGP5:
<https://www.spn.usace.army.mil/Missions/Regulatory/Emergency-Permits/>

RWQCB: Application and other resources:
https://www.waterboards.ca.gov/centralcoast/water_issues/programs/401wqcert/
(scroll to the **Fire Response and Emergency Project Application Form** link).

CDFW: Emergency notification for SAA:
<https://epims.wildlife.ca.gov/index.do>

It is the intent of Santa Cruz County to include conditions in this permit that conform with the majority of the requirements of the other agencies. This permit does not negate the responsibility of a property owner to conform with State and Federal regulations nor does it permit such work under any authority other than the County of Santa Cruz. It is the intention that incorporating these conditions into a project design will assist in expediting review and approval by other agencies. To that end, two practices by the Natural Resource Conservation Service (NRCS) are attached and incorporated into this permit; practice 396 on fish passage and practice 578 on stream crossings.

Conditions are included below that require any load-bearing structures be designed and signed off by a civil engineer, and any project that will disturb a stream with flowing water to have a biologist review and sign off on the design of the structure with regards to fish passage and the dewatering plan, and ensure other conditions are implemented minimize impacts to listed species.

All work performed must adhere to all relevant conditions in this permit. Both the property owner and the project engineer must review all conditions and sign a statement that have read and agree to abide by the conditions of this permit.

Staff Recommendation

The Planning Department has taken administrative action on your application as follows:

- Approved (if not appealed).
- Approved with Conditions (if not appealed).
- Denied (based on the attached findings).

NOTE: This decision is final unless appealed.

See signature page for information regarding appeals. You may exercise your permit after signing the permit and meeting any conditions which are required to be met prior to exercising the permit. If you file an appeal of this decision, permit issuance will be stayed and the permit cannot be exercised until the appeal is decided.

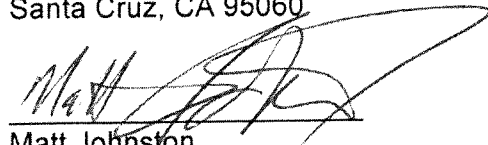
Please note: This permit is valid for all stream crossings directly impacted by the 2022-2023 storm damage. Work covered under this Riparian Exception must be initiated within one year of the date of this permit.

If you have any questions about this project, please contact Logan Thompson at: (831) 454-2530 or Logan.Thompson@santacruzcounty.us

Report Prepared By:


Logan Thompson
Resource Planner
Santa Cruz County Planning Department
701 Ocean Street, 4th Floor
Santa Cruz, CA 95060

Report Reviewed By:


Matt Johnston
Principal Planner
Environmental Planning
Santa Cruz County Planning Department

Riparian Exception Findings

1. That there are special circumstances or conditions affecting the property.

The special circumstance affecting the property is that due to the catastrophic storm damage, multiple stream crossings that have been destroyed must be rebuilt or rehabilitated in order for homeowners to access their properties.

2. That the exception is necessary for the proper design and function of some permitted or existing activity on the property.

The exception is necessary for the proper design and function of the permitted use and existing activity, as the replacement of stream crossing serves is a fundamental requirement to access the property or properties to reestablish a permitted use.

3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property downstream or in the area in which the project is located.

The granting of the exception will not be detrimental to the public welfare or injurious to other property downstream or in the area in which the project is located. Crossing designs must show that the flow capacity of the channel meets or exceeds pre-flood capacity, and measures to protect water quality must be in place at all times during construction-related activities. All disturbed areas will be covered with appropriate erosion control and revegetated with native riparian plantings as necessary.

4. That the granting of the exception, in the Coastal Zone, will not reduce or adversely impact the riparian corridor, and there is no feasible less environmentally damaging alternative.

Where this project falls within the Coastal Zone, structures will be rebuilt within the general area where a previously flood-damaged crossing existed. The decision of the location and the method of construction will be determined by qualified professionals who will make decisions that will not adversely affect the riparian corridor. There is no feasible less environmentally damaging alternative, as the construction of this crossing is necessary for access to this/these properties.

5. That the granting of the exception is in accordance with the purpose of this chapter, and with the objectives of the General Plan and elements thereof, and the Local Coastal Program Land Use Plan.

The granting of the exception is in accordance with the purpose of the Riparian Corridor and Wetlands Protection Ordinance, and with the objectives of the General Plan. The General Plan and County Code allow for development within the riparian corridor under permit for allowed uses. In each case to be covered by this permit, the purpose is to reestablish legal access to a developed parcel. All disturbed areas will be revegetated with native riparian plantings as necessary, thereby minimizing the potential for erosion while maintaining riparian plant species.

Conditions of Approval

Reference: 2022-2023 Winter Storms Stream Crossing Permit (231043)

Attachments: NRCS Conservation Practice Standards
Native Riparian Plant Palette

- I. This permit authorizes work in the riparian corridor to rebuild necessary stream crossings such as bridges, culverts and roadway stabilizations affected by the 2022-2023 Winter Storms. This approval does not confer legal status on any existing structure(s) or existing use(s) on the subject property that are not specifically authorized by this permit. Prior to exercising any rights granted by this permit including, without limitation, any construction or site disturbance, the applicant/ owner shall:
 - A. Sign, date, and return to the Planning Department one copy of the approval to indicate acceptance and agreement with the conditions thereof.

- II. All construction shall be performed according to the approved plans for the Riparian Exception permit. Prior to commencement of construction, the applicant/owner must meet the following conditions:
 - A. The project proponent is responsible for obtaining all necessary approvals and permits from the USACE, RWQCB, NMFS, CDFW, and USFWS, and for complying with all measures and conditions included in those permit approvals. Projects will conform with the attached practices from the NRCS on stream crossings and fish passage.

 - B. To minimize impacts to riparian corridor and aquatic habitat and to avoid/minimize impacts to special-status species, the following shall be adhered to unless otherwise advised by the above regulatory agencies:
 1. Prior to commencement of construction, high visibility fencing and/or flagging shall be installed, with the assistance of a qualified biologist, to indicate the limits of work and the boundaries of sensitive habitat areas to be avoided. During construction, no grading, construction or other work shall occur outside the designated limits of work.

 2. No excess soil, chemicals, debris, equipment or other materials shall be dumped or stored outside the designated limits of work.

 3. Hand tools shall be used to trim vegetation to the extent necessary to gain access to the work area

 - C. Implement standard erosion control BMPs to prevent construction materials from entering the nearby creek and adjacent riparian areas. Install perimeter silt fencing and construction area limit-of-work fencing.

- D. All staging of equipment and materials, and refueling of equipment, shall be located in existing roadways, logging landings, and parking areas. The contractor shall prepare and implement a fuel spill prevention and clean-up plan.
- E. The project shall remove all old bridge debris from the stream channel and restore the bed and banks to pre-disaster contours and conditions to the maximum extent possible.
- F. Any work in or near an active watercourse shall conform to the following conditions:
 - 1. The project shall be monitored by a biologist familiar with Santa Cruz County Sensitive Habitat regulations and qualified to handle species known to be in the project area (hereinafter referred to as "qualified biologist". Biologists meeting these criteria are provided on the *Consultants for Biotic Reports, Restoration Work and Native Plants and Seeds* list maintained by the County of Santa Cruz Planning Department.
 - 2. A qualified biologist shall oversee the installation of the diversion/dewatering system to divert stream flow around the active construction area. Construction activity other than installation of water diversion/dewatering systems shall occur only within dry or dewatered areas. Any necessary fish salvage and relocation shall be done in accordance with guidance from NMFS.
 - 3. A biologist shall be on site during dewatering and initial ground disturbing activities to ensure that adverse effects to special-status species or their habitat does not occur and shall periodically inspect the project site during construction for compliance with permit conditions.
 - 4. If a special-status species is identified at any time prior to or during construction, work shall cease immediately in the vicinity of the individual. The animal shall either be allowed to move out of harm's way on its own or the qualified biologist shall move the animal out of harm's way to a safe relocation site. The biologist shall have the authority to stop work that may result in the "take" of special-status species, and shall be given enough time to move the animal out of harm's way.
 - 5. Every individual working on the Project must attend biological awareness training prior to working on the job site. The training shall be delivered by a USFWS approved biologist and shall include location and identification of sensitive habitats and all special-status species with potential to occur in the project area including information specific to identifying these species and the measures being implemented to protect them, the importance of avoiding impacts to special-status species and their habitat, and the steps necessary if any special-status species is encountered at any time, best management practices to be implemented, identification of the limits of work, and project-specific

avoidance measures and permit conditions that must be followed.

- G. The project proponent shall implement a native species revegetation plan to provide replacement vegetation. Please refer to the attached Native Riparian Plant Palette for appropriate species.
 - H. If the construction plan proposes the use of temporary coffer dams for isolating the work areas at the upstream and downstream extent of the project, installation and removal of the temporary coffer dams will be monitored by the biologist. The following conditions shall apply;
 - 1. Following initial construction of the coffer dams and initiation of bypass flows via the existing diversion system, isolated standing water shall be pumped from the work area to adjacent vegetated terraces, settling tanks or back into the creek, if turbidity is not elevated more than 10% of background turbidity levels.
 - 2. Pumps used to draw water out of the secured area shall be installed with fish screens.
 - 3. The installation and removal of the coffer dam structures shall be controlled to minimize turbidity in the water.
 - I. The project civil engineer shall provide a letter to the Resource Planner at the preconstruction conference that provides an outline for the submittal of final grading and drainage plans for the crossing.
 - J. The property owner, applicant or other responsible party shall email Environmental Planning at EnvironmentalPlanningInfo@santacruzcounty.us four working days prior to site disturbance.
- III. The following inspections are required (at a minimum) for all work proposed:
- A. Preconstruction meeting with the Contractor, Civil and Soils Engineers and biotic and erosion consultants.
 - B. All erosion and sediment control plans must be inspected by the entity responsible for completing the erosion control plans.
 - C. After completion of work a final inspection will occur by all engineers and consultants involved and a submittal of all final acceptance letters to the Planning Department, Environmental Section, will serve as the project final. All bare slopes shall be treated per the biotic and erosion consultant recommendations.
 - D. The project must comply with all recommendations of the technical reports or consultant recommendations (soils, geologic, biotic, etc.) and of 16.40.040 and 16.42.100 of the County Code. If at any time during site preparation, excavation, or other ground disturbance associated with this development, any artifact or other evidence of an historic archaeological resource or a Native American cultural site is discovered, the responsible persons shall immediately

cease and desist from all further site excavation and notify the Sheriff-Coroner if the discovery contains human remains, or the Planning Director if the discovery contains no human remains. The procedures established in Sections 16.40.040 and 16.42.100, shall be observed.

- E. Final acceptance letters must be submitted before final inspection from the appropriate engineers and earthwork contractor certifying the project was constructed in conformance with the approved project plans.

IV. Conditions of Outside Agencies

- A. All property owners and engineers must acknowledge that all conditions and practices attached herein have been read in their entirety and that those conditions will be met in the project development as they are intended.

V. Operational Conditions

- B. In the event that future County inspections of the subject property disclose noncompliance with any Conditions of this approval or any violation of the County Code, the owner shall pay to the County the full cost of such County inspections, including any follow-up inspections and/or necessary enforcement actions, up to and including permit revocation.
- C. No future work shall occur within the Riparian Corridor without a County Permit.
- E. As a condition of this development approval, the holder of this development approval ("Development Approval Holder"), is required to defend, indemnify, and hold harmless the COUNTY, its officers, employees, and agents, from and against any claim (including attorneys' fees), against the COUNTY, its officers, employees, and agents to attack, set aside, void, or annul this development approval of the COUNTY or any subsequent amendment of this development approval which is requested by the Development Approval Holder.
 - A. COUNTY shall promptly notify the Development Approval Holder of any claim, action, or proceeding against which the COUNTY seeks to be defended, indemnified, or held harmless. COUNTY shall cooperate fully in such defense. If COUNTY fails to notify the Development Approval Holder within sixty (60) days of any such claim, action, or proceeding, or fails to cooperate fully in the defense thereof, the Development Approval Holder shall not thereafter be responsible to defend, indemnify, or hold harmless the COUNTY if such failure to notify or cooperate was significantly prejudicial to the Development Approval Holder.
 - B. Nothing contained herein shall prohibit the COUNTY from participating in the defense of any claim, action, or proceeding if both of the following occur:
 - A. COUNTY bears its own attorney's fees and costs; and

- B. COUNTY defends the action in good faith.
- C. Settlement. The Development Approval Holder shall not be required to pay or perform any settlement unless such Development Approval Holder has approved the settlement. When representing the County, the Development Approval Holder shall not enter into any stipulation or settlement modifying or affecting the interpretation or validity of any of the terms or conditions of the development approval without the prior written consent of the County.
- D. Successors Bound. "Development Approval Holder" shall include the applicant and the successor'(s) in interest, transferee(s), and assign(s) of the applicant.
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In accordance with Chapter 18.10 of the County Code, minor variations to this permit which do not affect the overall concept, intensity, or density may be approved by the Planning Director at the request of the applicant or staff.

Please note: This permit is applicable to work done within one year from the effective date below, or the date a structure was damaged, by subsequent debris flow. In all cases the permit shall expire three years after the approval date below.

Approval Date: 2/2/2023
Effective Date: 2/2/2023
Expiration date: 2/2/2026

2022-2023 Winter Storms Stream Crossing Permit (231043)

Attachments to Conditions of Approval

NRCS Conservation Practice Standards

Reference: Streambank and Shoreline Protection (Ft.) Code 580

NRCS Conservation Practice Standards

Reference: Condition II.A

Native Riparian Plant Palette

Reference: Condition II.G

NATURAL RESOURCES CONSERVATION SERVICE
CONSERVATION PRACTICE STANDARD

STREAMBANK AND SHORELINE PROTECTION

(Ft.)
CODE 580

DEFINITION

Treatment(s) used to stabilize and protect banks of streams or constructed channels, and shorelines of lakes, reservoirs, or estuaries.

PURPOSE

- To prevent the loss of land or damage to land uses, or facilities adjacent to the banks of streams or constructed channels, shoreline of lakes, reservoirs, or estuaries including the protection of known historical, archeological, and traditional cultural properties.
- To maintain the flow capacity of streams or channels.
- Reduce the offsite or downstream effects of sediment resulting from bank erosion.
- To improve or enhance the stream corridor for fish and wildlife habitat, aesthetics, recreation.

CONDITIONS WHERE PRACTICE APPLIES

This practice applies to streambanks of natural or constructed channels and shorelines of lakes, reservoirs, or estuaries where they are susceptible to erosion. It does not apply to erosion problems on main ocean fronts, beaches or similar areas of complexity.

CRITERIA

General Criteria Applicable to All Purposes

Treatments shall be in accordance with all applicable local, state and federal laws and regulations.

Treatments applied shall seek to avoid adverse effects to endangered, threatened, and candidate species and their habitats, whenever possible.

Treatments applied shall seek to avoid adverse effects to archaeological, historic, structural, and traditional cultural properties, whenever possible.

An assessment of unstable streambank or shoreline sites shall be conducted in sufficient detail to identify the causes contributing to the instability (e.g. livestock access, watershed alterations resulting in significant modifications of discharge or sediment production, in channel modifications such as gravel mining, head cutting, water level fluctuations, boat-generated waves, etc.).

Proposed protective treatments to be applied shall be compatible with improvements being planned or installed by others.

Protective treatments shall be compatible with the bank or shoreline materials, water chemistry, channel or lake hydraulics, and slope characteristics above and below the water line.

End sections of treatment areas shall be adequately anchored to existing treatments, terminate in stable areas, or be otherwise stabilized to prevent flanking of the treatment.

Protective treatments shall be installed that result in stable slopes. Design limitations of the bank or shoreline materials and type of measure installed shall determine steepest permissible slopes.

Designs will provide for protection of installed treatments from overbank flows resulting from upslope runoff and flood return flows.

Internal drainage for bank seepage shall be provided when needed. Geotextiles or properly designed filter bedding shall be incorporated with structural measures where there is the potential for migration of material from behind the measure.

Treatments shall be designed to account for any anticipated ice action, wave action, and fluctuating water levels.

All disturbed areas around protective treatments shall be protected from erosion. Disturbed areas that are not to be cultivated shall be protected as soon as practical after construction.

