

EMERGENCY PERMIT

23EMP-00000-0010



Coastal Zone:

Subject to the requirements of Section 35-171.2 of the Article II Coastal Zoning Ordinance and the policies of the Coastal Land Use Plan.

Case Name: Caltrans Gaviota Scour Repair and Wall
Case Number: 23EMP-00000-00010
Site Address: Between Post Miles 47.1 & 47.74, near Gaviota Tunnel
APN: Caltrans R.O.W Between Post Miles 47.1 & 47.74
Applicant/Agent Name: Allison Donatello for Caltrans
Owner Name: California Department of Transportation (Caltrans)

PERMIT APPROVAL:

This is to inform you that an Emergency Permit has been approved for:

The proposed project is a request by Caltrans for an Emergency Permit to allow construction of an approximately 550-foot-long secant pile wall and installation of Rock Slope protection (RSP) to repair the revetment and embankment supporting the southbound Highway 101 just South of the Gaviota Tunnel, between Post Miles 47.1 and 47.25. In addition, there are three spot locations of scour damage to existing revetments and embankment support northbound and southbound Highway 101 that need repairs, between Post Miles 47.25 to 47.75. The Emergency Permit is required to repair damage that occurred during the 2023 January winter storms which scoured the creek bank and revetments, jeopardizing the shoulder, lane, and roadbed of southbound Highway 101. Project elements include the following:

- Construct a 550-foot-long secant pile wall extending from the roadbed downslope toward Gaviota Creek to support and protect the southbound HWY 101 travel lane;
- Modify drainage systems to tie-in to the secant wall;
- Repair 3 locations by removing portions failed sackcrete and repairing with Rock Slope Protection (RSP);
- Implement temporary creek diversion and dewatering;
- Apply erosion control and aquatic planting;
- Comply with all measures required by the Army Corps Regional General Permit 63 including measures from RWQCB, US Fish and Wildlife, CDFW. and NOAA for protection water quality, habitat, and sensitive species (such as red-legged frogs and steelhead);
- Conduct approximately 6,500-7,000 CY of excavation for piles and slope repair, and approximately 1,500 CY of temporary fill to support equipment;
- Implement a stormwater control plan;
- Remove and replace the existing concrete median barrier;
- Restore the roadway within the work area and apply overlay material;
- Construct a temporary median detour with traffic control devices, and;
- Reduce traffic to a single lane in the southbound direction during construction activities.

The project is located within the Caltrans right-of-way near the Gaviota Tunnel, between Post Miles 47.1 and 47.74, in the Gaviota area, Third Supervisorial District.

Therefore, this situation constitutes an emergency in accordance with the applicable Development Code indicated above and immediate action is warranted. As the required findings (listed below) can be made, the emergency work is hereby approved, subject to compliance with the attached conditions of approval. The project is exempt from environmental review pursuant to CEQA Guidelines Section 15269(c), which exempts “specific actions necessary to prevent or mitigate an emergency” (see Attachment B). This permit is not valid until signed by the owner/applicant and subsequently issued by the Department upon verification that all conditions of approval requiring action prior to permit issuance are satisfied.

Sincerely,



Lisa Plowman, Director

APPROVAL DATE: May 30, 2023

OWNER/APPLICANT AGREEMENT:

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions of approval incorporated herein. The undersigned also acknowledges and agrees that:

- This Emergency Permit provides only temporary authorization for the proposed action and other applicable permits (such as a Conditional Use Permit, Coastal Development Permit, Land Use Permit, Building Permit) are required by law to validate the emergency work as permanent.
- Any evidence or findings contained herein, or upon which this permit relies, shall not constitute any limitation on the authority of the County of Santa Barbara to issue, grant, deny, rescind, or revoke this permit or any future permit(s) required for the activities described herein, or on the authority of the County of Santa Barbara to analyze, mitigate, or condition any future permit(s) required for the activities described herein.
- This permit does not authorize any work or construction activities outside of the scope of the project as indicated in the project description, conditions of approval and approved plans.
- This permit shall not be construed to authorize any violation of County ordinance or policy, or the violation of any State or Federal regulation.

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| Print Name | Signature | Date |
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PERMIT ISSUANCE:

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| Print Name | Signature | Date |
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BACKGROUND:

A series of heavy storms and atmospheric rivers in January 2023 caused widespread flooding and elevated creek levels throughout Santa Barbara County, resulting in storm damage on Highway 101 near Gaviota Tunnel. Extreme flows in Gaviota Creek adjacent to Highway 101 damaged existing revetments and resulted in creek scouring causing over-steepened slopes compromising the stability of the highway. Approximately 500 feet of creek bank and revetments were damaged leaving little to nothing remaining to protect the highway embankment from continued loss eventually resulting in the loss of shoulder, lane, or the entire roadbed of southbound Highway 101. The slope adjacent to Highway 101 between the southbound lane and Gaviota Creek was previously protected by a combination of stacked sackcrete and Rock Slope Protection (RSP) but these protective measures are failing. The Emergency Permit would allow work within the Caltrans right-of-way between Post Miles 47.1 and 47.74, near the Gaviota Tunnel to stabilize the slope supporting Highway 101.

FINDINGS OF APPROVAL:

- 1. The approval of this project shall not be held to permit or to be an approval of a violation of any provision of any County Ordinance or State Law.**

The approval of this Emergency Permit will not permit or approve any violation of County Ordinance or State Law. Condition of Approval 2 requires that an application for the required permits necessary to validate the emergency work as permanent be submitted by the applicant no later than 30 days following the issuance of the Emergency Permit. Processing of the required follow-on permit will ensure that the project is reviewed for, and completed in compliance with, applicable regulations.

- 2. In compliance with Section 35-171.5.2 of the Article II Zoning Ordinance, prior to the approval or conditional approval of an application for an Emergency Permit the Director shall first make all of the following findings, as applicable:**

- a. An emergency exists and requires action more quickly than provided for by the procedures for permit processing, and the action will be completed within 30 days unless otherwise specified by the terms of the permit.*

A series of heavy storms and atmospheric rivers in January 2023 caused widespread flooding and elevated creek levels throughout Santa Barbara County, resulting in storm damage on Highway 101 near Gaviota Tunnel. Extreme flows in Gaviota Creek adjacent to Highway 101 damaged existing revetments and resulted in creek scouring causing over-steepened slopes compromising the stability of the highway. Approximately 500 feet of creek bank and revetments were damaged leaving little to nothing remaining to protect the highway embankment from continued loss with the potential to result in the loss of

shoulder, lane, or the entire roadbed of southbound Highway 101.

b. Public comment on the proposed emergency action has been reviewed.

No public comment on the proposed emergency action has been received. Noticing to surrounding properties was mailed on May 30, 2023 and three notice placards will be posted on-site.

c. The action proposed is consistent with the requirements of the Coastal Land Use Plan and Coastal Zoning Ordinance.

A summary of Key Coastal Land Use Plan and Coastal Zoning Ordinance policies is included below:

Water Quality Policies

Coastal Act Policy 30231: The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored though, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Coastal Plan Policy 3-19: Degradation of the water quality of groundwater basins, nearby streams, or wetlands shall not result from development of the site. Pollutants, such as chemicals, fuels, lubricants, raw sewage, and other harmful waste, shall not be discharged into or alongside coastal streams or wetlands either during or after construction.

Coastal Plan Policy 9-41: All permitted construction and grading within stream corridors shall be carried out in such a manner as to minimize impacts from increased runoff, sedimentation, biochemical degradation, or thermal pollution.

Consistent: These proposed project will implement measures that will ensure that the biological quality of coastal waters and streams is protected and that minimizes impacts from runoff, and sedimentation. The project will include implementation of a Stormwater Protection Plan and will comply with all measures required by the Army Corps Regional General Permit 63 including measures from the Regional Water Quality Control Board, Fish and Wildlife, NOAA for protection water quality and sensitive species (such as red-legged frogs and steelhead) habitat.

Riparian Corridor Policies

Coastal Plan Policy 9-37: The minimum buffer strip for major streams in rural areas, as defined by the land use plan, shall be presumptively 100 feet, and for streams in urban areas, 50 feet. These minimum buffers may be adjusted upward or downward on a case-by-case basis. The buffer shall be established based on an investigation of the following

factors and after consultation with the Department of Fish and Game and Regional Water Quality Control Board in order to protect the biological productivity and water quality of streams 1) soil type and stability of stream corridors; 2) how surface water filters into the ground; 3) slope of the land on either side of the stream; and 4) location of the 100-year flood plain boundary. Riparian vegetation shall be protected and shall be included in the buffer. Where riparian vegetation has previously been removed, except for channelization, the buffer shall allow for the reestablishment of riparian vegetation to its prior extent to the greatest degree possible.

Coastal Plan Policy 9-38: No structures shall be located within the stream corridor except: public trails, dams for necessary water supply projects, flood control projects where no other method for protecting existing structures in the flood plain is feasible and where such protection is necessary for public safety or to protect existing development; and other development where the primary function is for the improvement of fish and wildlife habitat. Culverts, fences, pipelines, and bridges (when support structures are located outside the critical habitat) may be permitted when no alternative route/location is feasible. All development shall incorporate the best mitigation measures feasible.

Coastal Plan Policy 9-40: All development, including dredging, filling, and grading within stream corridors, shall be limited to activities necessary for the construction of uses specified in Policy 9-38. When such activities require removal of riparian plant species, revegetation with local native plants shall be required except where undesirable for flood control purposes. Minor clearing of vegetation for hiking, biking, and equestrian trails shall be permitted.

Gaviota Coast Plan Policy NS-2: Environmentally Sensitive Habitat (ESH) Protection. (COASTAL) Environmentally Sensitive Habitat (ESH) areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas. A resource dependent use is a use that is dependent on the ESH resource to function (e.g., nature study, habitat restoration, public trails, and low-impact campgrounds). Resource-dependent uses shall be sited and designed to avoid significant disruption of habitat values to ESH through measures including but not limited to: utilizing established disturbed areas where feasible, limiting grading by following natural contours, and minimizing removal of native vegetation to the maximum extent feasible. Non-resource dependent development, including fuel modification and agricultural uses, shall be sited and designed to avoid ESH and ESH buffer areas. If avoidance is infeasible and would preclude reasonable use of a parcel or is a public works project necessary to repair and maintain an existing public road or existing public utility, then the alternative that would result in the fewest or least significant impacts shall be selected and impacts shall be mitigated. Development in areas adjacent to ESH areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Gaviota Coast Plan Dev Std NS-2: ESH Setbacks and Buffers. (COASTAL) Buffers shall be provided between ESH and new development to serve transitional habitat and to provide distance and physical barriers to human intrusion. Riparian ESH areas shall have a minimum development area setback buffer of 100 feet from the edge of either side of the top-of-bank of creeks or the edge of riparian vegetation, whichever is further. Wetland ESH areas shall include a minimum development area setback buffer of 100 feet from the edge of the wetland. All other ESH areas shall have a minimum development area setback buffer of 100 feet from the outer edge of the habitat area. Monarch butterfly trees shall include a minimum development area setback buffer of 50 feet from the edge of the tree canopy. Development shall be required to comply with these buffer zones as part of the proposed development, except where setbacks or buffers would preclude reasonable use of the parcel consistent with applicable law. Appropriate public recreational trails may be allowed within setbacks or buffer areas. Required buffers may be adjusted upward on a case-by-case basis given site specific evidence provided by a biological report prepared by a qualified biologist. Where adjusted upward where necessary in order to prevent significant disruption of habitat values, the required minimum buffer shall not preclude reasonable use of a parcel consistent with applicable law. Adjustment of the riparian or stream ESH buffer shall be based on an investigation of the following factors and after consultation with the Department of Fish and Wildlife and Regional Water Quality Control Board. All buffers shall be sufficient to protect the biological productivity and water quality of streams, to avoid significant disruption of habitat values, and to be compatible with the continuance of the habitat area: 1) Existing vegetation, soil type and stability of stream and riparian corridors; 2) How surface water filters into the ground; 3) Slope of the land on either side of the stream; 4) Location of the 100 year flood plain boundary; and, 5) Consistency with adopted Gaviota Coast Plan, Coastal Land Use Plan, and Comprehensive Plan policies. In all cases listed above, buffer areas on sites within the Coastal Zone may be adjusted downward only in order to avoid precluding reasonable use of property.

Consistent: The proposed project requires installation of a secant pile wall in order to prevent potential loss of the Highway 101 southbound lane near Gaviota tunnel. Consistent with CLUP Policy 9-38 and Gaviota Coast Plan Policy NS-2, the wall is necessary for public safety, to protect existing infrastructure, and to protect an existing public road. The wall will replace existing sackcrete bank stabilization within the Gaviota Creek corridor and must be placed in the proposed location in order to stabilize the immediately adjacent highway. Consistent with Gaviota Coast Plan Policy NS-2, the proposed alternative would result in the least significant impacts over the long term when compared to other alternatives that could result in multiple disruptions to the creek, creek channelization, or failed repair measures. All work will comply with measures required by the Army Corps Regional General Permit 63 including measures from the Regional Water Quality Control Board, Fish and Wildlife, NOAA. In addition, Condition of approval No. 2 requires application for a Development Plan (DVP) and Coastal

Development Permit (CDP) within 30 days of Emergency Permit approval. Biological impacts will be further analyzed and mitigated through the processing of the DVP and CDP.

Riparian Vegetation and Restoration

Gaviota Coast Plan Policy NS-11: Restoration. (COASTAL) In cases where adverse impacts to biological resources as a result of new development cannot be avoided and impacts have been minimized, restoration shall be required. A minimum replacement ratio of 3:1 shall be required to compensate for adverse impacts to native habitat areas or biological resources, except that mitigation for impacts to wetlands shall be a minimum 4:1 ratio. Where onsite restoration is infeasible, the most proximal and in-kind offsite restoration shall be required. Preservation in perpetuity for conservation and/or open space purposes of areas subject to restoration shall be required as a condition of the CDP and notice of such restriction shall be provided to property owners through a recorded deed restriction or Notice to Property Owner.

Gaviota Coast Plan Policy NS-7: Riparian Vegetation. (COASTAL) New development, including fuel modification, shall be sited and designed to protect riparian ESH, consistent with Policy NS-2 and all other applicable policies and provisions of this Plan and the LCP.

Consistent: Adverse impacts to the Gaviota Creek corridor cannot be completely avoided as the proposed wall will replace existing sackcrete bank stabilization within the Gaviota Creek corridor and must be placed in the proposed location in order to stabilize the immediately adjacent highway. The proposed alternative would result in the least significant impacts over the long term when compared to other alternatives that could result in multiple disruptions to the creek, creek channelization, or failed repair measures. All work will comply with measures required by the Army Corps Regional General Permit 63 including measures from the Regional Water Quality Control Board, Fish and Wildlife, NOAA. In addition, Condition of approval No. 2 requires application for a Development Plan (DVP) and Coastal Development Permit (CDP) within 30 days of Emergency Permit approval. Biological impacts will be further analyzed and mitigated through the processing of the DVP and CDP and any impacts to native habitat areas identified during processing will be required to be mitigated consistent with the requirements of Gaviota Coast Plan Policy NS-11.

Wildlife Policies

Coastal Plan Policy 9-39: Dams or other structures that would prevent upstream migration of anadromous fish shall not be allowed in streams targeted by the California Department of Fish and Game unless other measures are used to allow fish to bypass obstacles. These streams include: San Antonio Creek (Los Alamos area), Santa Ynez River, Jalama Creek, Santa Anita Creek, Gaviota Creek, and Tecolote Creek.

Gaviota Coast Plan Dev Std NS-1: Wildlife Corridors. (COASTAL) Where avoidance of wildlife corridors is infeasible, development, including fences, gates, roads, and lighting

shall be sited and designed to not restrict wildlife movement. Fences and gates shall be wildlife-permeable, unless the fence or gate is associated with an approved agricultural use, is located within an approved development area, or where temporary fencing is required to keep wildlife away from habitat restoration areas.

Gaviota Coast Plan Dev Std NS-4: Sensitive Wildlife Species. (COASTAL) If potentially suitable habitat or critical habitat exists for sensitive wildlife species on or adjacent to a project site, prior to approval of Coastal Development Permits for any projects in the Gaviota Coast Plan Area, presence/absence surveys focused on the area to be disturbed and/or affected by the project shall be conducted in accordance with applicable county and resource agency protocols to determine the potential for impacts resulting from the project on these species.

Consistent: The project would be consistent with applicable policies pertaining to protection of sensitive wildlife species. Gaviota Creek has the potential to support sensitive wildlife species such as Steelhead and Red Legged Frog. The proposed secant pile wall was chosen as the repair option as opposed to other options, in part, to avoid narrowing of the creek channel and potential impacts to anadromous fish. All work will comply with measures required by the Army Corps Regional General Permit 63 including measures from the Regional Water Quality Control Board, Fish and Wildlife, NOAA pertaining to fish passage, protection of wildlife corridors, and wildlife surveys. In addition, Condition of approval No. 2 requires application for a Development Plan (DVP) and Coastal Development Permit (CDP) within 30 days of Emergency Permit approval. Biological impacts will be further analyzed and mitigated through the processing of the DVP and CDP and any impacts to native habitat areas and wildlife identified during processing will be required to be mitigated consistent with Coastal Plan and Gaviota Coast Plan Policies.

Article II, Section 35-97.19 Development Standards for Stream Habitats.

Consistent: The proposed project would be consistent with the development standards of Article II, Section 35-97.16. The proposed project requires installation of a secant pile wall in order to prevent potential loss of the Highway 101 southbound lane near Gaviota tunnel. The wall is necessary for public safety, to protect existing infrastructure, and to protect an existing public road. The wall will replace existing sackcrete bank stabilization within the Gaviota Creek corridor and must be placed in the proposed location in order to stabilize the immediately adjacent highway. The proposed alternative would result in the least significant impacts over the long term when compared to other alternatives that could result in multiple disruptions to the creek, creek channelization (and associated impacts to anadromous fish) or failed repair measures. The proposed project will include implementation of a stormwater protection plan in order to minimize impacts from increased runoff, sedimentation, biochemical degradation, or thermal pollution.

All work will comply with measures required by the Army Corps Regional General Permit 63 including measures from the Regional Water Quality Control Board, Fish and Wildlife, NOAA pertaining to water quality protection, fish passage, protection of wildlife corridors, and wildlife surveys. In addition, Condition of approval No. 2 requires application for a Development Plan (DVP) and Coastal Development Permit (CDP) within 30 days of Emergency Permit approval. Biological impacts will be further analyzed and mitigated through the processing of the DVP and CDP.

3. **This action is not subject to the provisions of the California Environmental Quality Act, pursuant to State CEQA Guidelines Section 15269, statutory exemption for emergency projects, which exempts “specific actions necessary to prevent or mitigate an emergency.”**

Emergency action is warranted because extreme flows in Gaviota Creek adjacent to Highway 101 damaged existing revetments and resulted in creek scouring causing over-steepened slopes compromising the stability of the highway. Approximately 500 feet of creek bank and revetments were damaged leaving little to nothing remaining to protect the highway embankment from continued loss eventually resulting in the loss of shoulder, lane, or the entire roadbed of southbound Highway 101. The Emergency Permit would allow work to stabilize the slope supporting Highway 101.

EMERGENCY PERMIT CONDITIONS OF APPROVAL

1. This Emergency Permit is based upon and limited to compliance with the project description, and the conditions of approval set forth below. Any deviations from the project description or conditions must be reviewed and approved by the County for conformity with this approval. Deviations without the above-described approval will constitute a violation of permit approval. If it is determined that project activity is occurring in violation of any or all of the following conditions, the Director of Planning and Development may revoke this permit and all authorization for development. The decision of the Director to revoke the Emergency Permit may be appealed to the Planning Commission.

The project description is as follows:

The proposed project is a request by Caltrans for an Emergency Permit to allow construction of an approximately 550-foot-long secant pile wall and installation of Rock Slope protection (RSP) to repair the revetment and embankment supporting the southbound Highway 101 just South of the Gaviota Tunnel, between Post Miles 47.1 and 47.25. In addition, there are three spot locations of scour damage to existing revetments and embankment support northbound and southbound Highway 101 that need repairs, between Post Miles 47.25 to 47.75. The Emergency Permit is required to repair damage that occurred during the 2023 January winter

storms which scoured the creek bank and revetments, jeopardizing the shoulder, lane, and roadbed of southbound Highway 101. Project elements include the following:

- **Construct a 550-foot-long secant pile wall extending from the roadbed downslope toward Gaviota Creek to support and protect the southbound HWY 101 travel lane;**
- **Modify drainage systems to tie-in to the secant wall;**
- **Repair 3 locations by removing portions failed sackcrete and repairing with Rock Slope Protection (RSP);**
- **Implement temporary creek diversion and dewatering;**
- **Apply erosion control and aquatic planting;**
- **Comply with all measures required by the Army Corps Regional General Permit 63 including measures from RWQCB, US Fish and Wildlife, CDFW. and NOAA for protection water quality, habitat, and sensitive species (such as red-legged frogs and steelhead);**
- **Conduct approximately 6,500-7,000 CY of excavation for piles and slope repair, and approximately 1,500 CY of temporary fill to support equipment;**
- **Implement a stormwater control plan;**
- **Remove and replace the existing concrete median barrier;**
- **Restore the roadway within the work area and apply overlay material;**
- **Construct a temporary median detour with traffic control devices, and;**
- **Reduce traffic to a single lane in the southbound direction during construction activities.**

Project construction is expected to be complete by winter 2023. The project is located within the Caltrans right-of-way near the Gaviota Tunnel, between Post Miles 47.1 and 47.74, in the Gaviota area, Third Supervisorial District.

2. An application(s) for the required permits necessary to validate the emergency work as permanent shall be submitted by the applicant to the Planning and Development Department no later than 30 days following the issuance of this Emergency Permit. The permits required for the proposed emergency work include a Development Plan and Coastal Development Permit pursuant to Section 35-93.2 of the Article II Coastal Zoning Ordinance.
3. Any materials required for a completed application, as identified in the initial review of the original application required pursuant to Condition #2 above, shall be submitted within 90 days after written notification of the application deficiencies is provided to the applicant. This time period may be extended by the Director of Planning and Development.
4. Only that emergency work specifically requested and deemed an emergency for the specific property mentioned is authorized. Any additional emergency work requires separate authorization from the Director of Planning and Development. The work authorized by this

permit must be commenced within 30 days of the date of issuance of the permit and completed by winter 2023.

5. This permit does not preclude the necessity to obtain authorization and/or permits from other County Departments or other agencies.
6. The Director of Planning and Development may order the work authorized under this emergency permit to stop immediately if it is determined that unanticipated and substantial adverse environmental effects may occur with continued construction.

Attachments:

- A. Master Application with Site Plan
- B. CEQA Exemption

cc: P&D Deputy Director
Supervising Planner, P&D
P&D Planner
Coastal Program Analyst, Calif. Coastal Comm., 89 S. California Street, Ventura CA 93001

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