

Appendix B. Regulatory Authorities and Permit “Triggers”

Note: The following is for background information only. The actual permits required for a particular project will be determined by the D/P TAC after reviewing the Project Design & Permit Plan and any necessary site visits.

US Army Corps of Engineers (USACE), San Francisco District *USACE Requirements Applicable to Restoration Activities Carried out Under IWRP*

U.S. Army Corps of Engineers (USACE) enforces Section 404 of the Clean Water Act (CWA) and Section 10 of the Rivers and Harbors Act. Section 404 of the CWA requires that a permit be obtained from the USACE for the discharge of dredged or fill material into “waters of the United States, including wetlands. ” Section 404 requires authorization from the USACE for the discharge of dredged or fill material into all waters of the United States¹, including wetlands, both adjacent and isolated. Discharges of fill material generally include, without limitation: placement of fill that is necessary for the construction of any structure, or impoundment requiring rock, sand, dirt, or other material for its construction; site-development fills for recreational, industrial, commercial, residential, and other uses; causeways or road fills; dams and dikes; artificial islands; property protection or reclamation devices such as riprap, groins, seawalls, breakwaters, and revetments; beach nourishment; levees; fill for intake and outfall pipes and below ground utility lines (crossing beneath waterways); fill associated with the creation of ponds; and any other work involving the discharge of fill or dredged material. A USACE permit is required whether the work is permanent or temporary. Examples of temporary discharges include dewatering of dredged material prior to final disposal, and temporary fills for access roadways, storage and work areas, and materials used to dewater a construction area such as cofferdams.

Section 10 of the Rivers and Harbors Act of 1899 prohibits the unauthorized obstruction or alteration of any navigable waters of the United States without a permit from USACE. Authorization is required for the construction of any structure in or over any navigable water of the United States. Structures or work outside the limits defined for navigable waters of the United States require a Section 10 permit if the structure or work affects the course, location, or condition of the water body. The law applies to any dredging or disposal of dredged materials, excavation, filling, rechannelization, or any other modification of a navigable water of the United States, and applies to all structures, from the smallest floating dock to the largest commercial undertaking. It further includes, without limitation, any wharf, dolphin, weir, boom breakwater, jetty, groin, bank protection (e.g. riprap, revetment, bulkhead), mooring structures such as pilings, aerial or subaqueous power transmission lines, intake or outfall pipes, permanently moored floating vessel, tunnel, artificial canal, boat ramp, aids to navigation, and any other permanent, or semi-permanent obstacle or obstruction.

If Section 404 jurisdiction encompasses areas regulated by Section 10, USACE typically combines the permit requirements of Section 10 and Section 404 into one permitting process.

¹ **Waters of the United States** is a term used to describe areas that fall under federal jurisdiction under the Clean Water Act. Waters of the United States include, but are not limited to: navigable waters; tributaries of navigable waters; waters that are, were, or may be used in interstate or foreign commerce; interstate waters; intrastate lakes, rivers, streams, mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds used by interstate travelers for recreation and other purposes, the use, degradation or destruction of which could affect interstate or foreign commerce. This includes waters that: are used by interstate or foreign travelers for recreation; are the source of fish or shellfish sold in interstate or foreign commerce, or are used for industrial purposes by industries engaged in interstate commerce.

USACE issues two types of permits under Section 404 and Section 10, general permits (either nationwide or regional) and standard permits (either letters of permission or individual permits). General permits (nationwide permits and regional general permits) are issued by USACE to streamline the Section 404 process for nationwide, statewide, or regional activities that have minimal environmental impacts. Standard permits (letters of permission and individual permits) are issued for activities that do not qualify for a general permit, i.e., that may have more than a minimal adverse environmental impact.

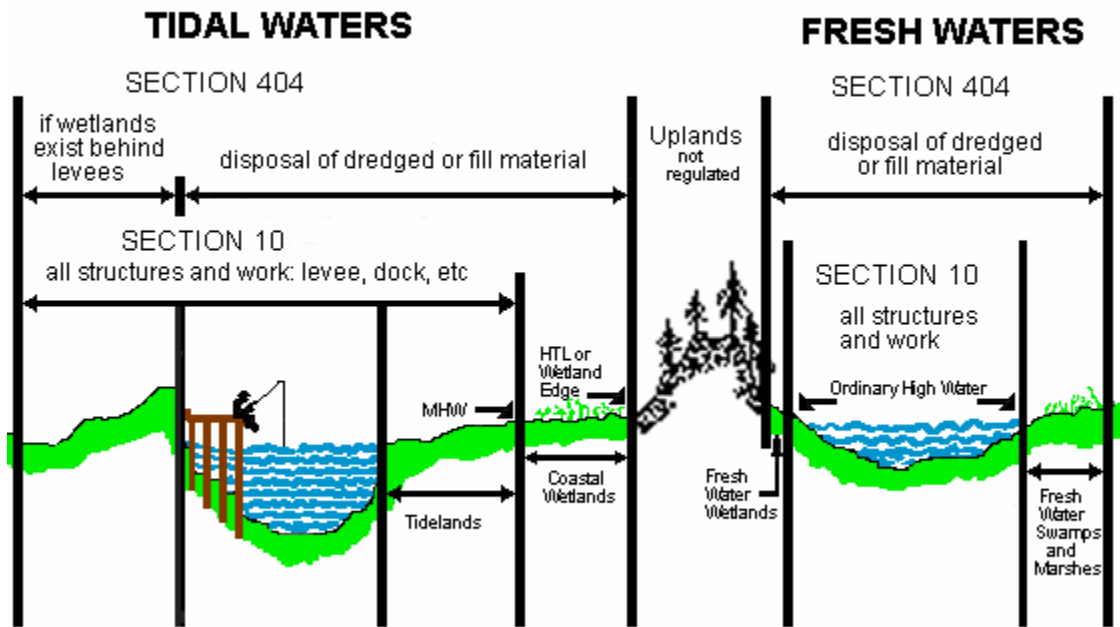


Figure C.1 Corps' Jurisdiction (obtained from the USACE Sacramento website)

USACE "Triggers"

Section 404 and Section 10 requirements apply to any project that involves work in, over, or under navigable waters of the United States (Section 10), or proposing to dump or place dredged or fill material in waters of the United States (Section 404) (Figure C.1). Actions typically subject to Section 404 requirements are those that would take place in wetlands or stream channels that convey natural runoff, including intermittent streams, even if they have been realigned. Artificial channels that convey only irrigation water usually are not included, unless they connect directly to jurisdictional waters of the United States.

Within stream channels, a permit under Section 404 would be needed for any discharge activity below the ordinary high-water mark, which is the line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, or the presence of litter or debris. The following types of activities involving navigable waters of the United States typically require permits from USACE under either Section 404 or Section 10, or both:

Integrated Watershed Restoration Program (IWRP) for Santa Cruz County
IWRP Design & Permitting Coordination Process Guidelines Manual

- Construction or modification of levees, dams, and dikes;
- Other structures or work, including excavation, dredging, and/or disposal activities within, under, or over the navigable waters;
- Activities that alter or modify the course, condition, location, or physical capacity of these waters; and
- Discharges of dredged or fill material.

USACE Approvals

It's expected that most IWRP projects will qualify for either a regional general permit or a nationwide permit. These two types of approvals are described below.

Regional General Permits (RGPs): Regional permits are issued by the District Engineer for a general category of activities when a) the activities are similar in nature and cause minimal environmental impact (both individually and cumulatively), and b) the regional permit reduces duplication of regulatory control by State and Federal agencies. To be eligible for a regional general permit (RGP), the applicant must meet conditions similar to those of the Nationwide Permit program, including prior notification.

There are two RGPs that are expected to be in place during the life of IWRP: RGP 1 and an RGP for CDFG to carry out activities consistent with their *California Salmonid Stream Habitat Restoration Manual*. Activities authorized under RGP 1 include the renovation, replacement, or removal of existing road, rail or trail crossings of waters of the US, and other related activities such as temporary work access, debris removal, dewatering and channel work, to provide fish passage. Discharged of dredged or fill material associated with the following activities is covered under the RGP 1:

- Projects that improve fish passage, including the placement of backwater and other passage structures
- The removal of road crossings, including culverts and fill, to limit sediment introduction caused when such crossings fail
- The replacement of culverts to increase hydraulic capacity where this can be shown to decrease the risk of failure, and where fish passage is considered in the design
- The cleaning of culverts where failure to clean can be shown to impair normal streamflow or would reduce stability and cause greater introduction of sediment to the stream upon failure
- The placement of temporary stream crossings to access work sites authorized by the RGP
- The construction of coffer dams to aid construction of projects authorized by the RGP
- The construction of fish passage facilities above and below culverts and road crossings
- Mitigation to minimize impacts associated with the above activities provided all activities are conducted according to the terms and conditions of the RGP.

The San Francisco District is currently working on renewing an RGP that was previously in place for activities undertaken by the CDFG consistent with the standards contained in *California Salmonid Stream Habitat Restoration Manual*. It's possible this RGP could apply to a larger group of potential project applicants depending on the final conditions developed for the RGP (USACE still developing this RGP). The USACE hopes to have this RGP in place for this summer.

Nationwide Permits (NWP): A nationwide permit is a form of general permit which authorizes a category of activities throughout the nation. These permits are valid only if the conditions applicable to the permits are met. If the conditions cannot be met, a regional or individual permit will be required.

For nationwide and general permits that require preconstruction notifications (described below), the following information is required:

- The name, address, and telephone numbers of the prospective permittee;
- The location of the proposed project;
- A brief description of the proposed project, the project's purpose, and direct and indirect adverse environmental effects the project would cause; and
- Any other NWPs, RGPs, or individual permits used or intended to be used to authorize any part of the proposed project or any related activity.

Specific NWPs have additional requirements, such as a wetland delineation or restoration plan for temporary wetland impacts (see the *REQUIRED ANALYSES* section).

US Fish and Wildlife Service (USFWS) and NOAA Fisheries (formerly the National Marine Fisheries Service)

Federal Endangered Species Act Requirements Applicable to Restoration Activities Carried out Under IWRP

USFWS and NOAA Fisheries administer the Federal Endangered Species Act (FESA). These two agencies must ensure protection of those species federally listed as threatened or endangered. Consultation with USFWS or NOAA Fisheries is required when there is the potential for federally listed species to be present in the project area. Consultation with NOAA Fisheries is required for potential impacts to anadromous species in the project area while all other species are under the jurisdiction of USFWS.

Section 9 of FESA prohibits the take of endangered species and prohibits the violation of any regulations that prohibit the taking of threatened species². If there is the potential for project activities to result in the take of these species, USFWS and NOAA Fisheries in consultation with the Project Lead may issue an "incidental take permit" (pursuant to either Section 7 or Section 10 of FESA). Consultation is with NOAA Fisheries and is conducted via one of these two principal pathways depending on whether or not a "federal nexus" exists for the project. A "federal nexus" is established if an activity is authorized, funded, or carried out by a federal agency. For an applicant who does not represent a federal agency, one of the most common examples of a federal nexus that might exist is if a project requires a permit from another federal agency such as the U.S. Army Corps of Engineers.

² "Take" is defined as: to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect a listed species. Harm includes actions such as significant habitat modification that kill or injure listed species. "Critical habitat" for listed species consists of either 1) the specific areas within the geographical area occupied by the species at the time it is listed in accordance with the provisions of ESA on which are found those physical or biological features (constituent elements) that are a. essential to the conservation of the species and b. which may require special management considerations or protections and 2) areas outside the geographical range occupied by the species at the time it is listed but that are determined to be essential for the conservation of the species.

Section 7 Consultation – Federal Nexus Exists

If a “federal nexus” does exist for a particular project, consultation with USFWS and NOAA Fisheries may proceed via a Section 7 consultation. Under Section 7, if a project is “authorized, funded, or carried out” by a federal agency, that federal agency must ensure that these actions are not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of critical habitat³. If the federal agency (applicant) determines that their action may affect listed species, they must initiate Section 7 consultation with USFWS and/or NOAA Fisheries. The initiation package includes a Biological Assessment, developed by the applicant, that USFWS and/or NOAA Fisheries will use to evaluate the effects of the action on the species and on the designated critical habitat.

NOAA Fisheries and USFWS conduct an informal consultation when the effects of a proposed project are discountable, insignificant, or completely beneficial to the listed species in the project area and no incidental take will occur. Informal consultations are typically concluded with a letter from USFWS or NOAA Fisheries, usually within approximately one month of the initiation of the consultation.

If a federal agency determines that an agency action may adversely affect listed species or critical habitat and take of listed species is expected, NOAA Fisheries and USFWS will initiate a formal consultation with the applicant. Formal consultations are concluded with NOAA Fisheries or USFWS issues a Biological Opinion, which may include terms, and conditions to further reduce impacts. Authorization of incidental take is also included in this Biological Opinion. If the biological opinion concludes that the project as proposed would involve the take of a listed species, but not to an extent that would jeopardize the species’ continued existence, the opinion must include an “incidental take statement”. The incidental take statement must specify an amount of take that may occur as a result of the action and suggest reasonable and prudent measures to minimize the impact of the take. If the action complies with the biological opinion and incidental take statement, it may be implemented without FESA being violated. If the biological opinion concludes that the proposed action would jeopardize the continued existence of a listed species or adversely modify its critical habitat, the opinion must suggest “reasonable and prudent alternatives” that would avoid that result, if any. USFWS and NOAA Fisheries cannot issue an incidental take permit for an action that would warrant a jeopardy opinion under Section 7.

Section 10 Consultation – Federal Nexus Does Not Exist

For projects where there is no “federal nexus”, Section 10 of the FESA allows USFWS or NOAA Fisheries to issue incidental take permits for otherwise lawful actions for which it is impractical to avoid take. In the absence of a “federal nexus”, the project applicant must meet certain requirements to comply with FESA, including the requirement to prepare a habitat conservation plan (HCP) that analyzes and explains an action’s impacts on the listed species and discuss measures to minimize and mitigate the impacts including a monitoring plan.

USFWS and NOAA Fisheries “Triggers”

If there is the potential for a federally listed threatened or endangered species to be present in the project area, some level of consultation with USFWS and/or NOAA Fisheries is required. To

³ “Jeopardy” is defined by a Federal agency action that would threaten the continued existence of a listed species or adversely modify the species’ critical habitat.

determine the likelihood for listed species to be present, the Project Lead can check the California Natural Diversity Database⁴, existing environmental documents prepared in the project area, or call USFWS and/or NOAA Fisheries to determine the potential for listed species to occur in the project area. If it can be shown that project activities can avoid or will have only very minimal effects to listed species in the project area, consultation can occur with these federal agencies in a more simplified manner either via a telephone communication or request for a written “letter of concurrence” from USFWS and/or NOAA Fisheries that project activities would only result in negligible effects to the species and no further consultation is required. If project activities had the potential to result in “take” of the listed species, as described above, a formal consultation process may be required. The potential for “take” is generally the threshold that triggers a formal consultation with USFWS or NOAA Fisheries. For example, for USFWS, if a project area contained appropriate habitat for the California red legged frog, but the Project Lead shows that project activities can avoid this area during construction (rope or fence it off for example), it is possible that consultation could proceed informally with USFWS. On the other hand, if project activities were likely going to involve work in areas characterized as red legged frog habitat (and the absence of frogs could not be proven via presence/absence surveys), such project activities might result in take of the species and would require formal consultation. In the case of NOAA Fisheries, the trigger for a formal consultation would be whether or not protected salmonids (coho and steelhead) had to be moved from the work area. This is usually a question of whether or not the instream work area requires dewatering. If dewatering is necessary but water can be diverted around the work space while maintaining a live channel for fish to pass around the work site, consultation could occur on an informal level. Alternatively, if a work area required complete dewatering such as installation of coffer dams, pumping of water out of the channel, and capturing any stranded fish, a formal consultation with NOAA Fisheries would be required⁵.

Central Coast Regional Water Quality Control Board (RWQCB)

RWQCB Requirements Applicable to Restoration Activities Carried out Under IWRP

Under Section 401 of the federal Clean Water Act, the Regional Water Quality Control Boards have the authority to issue, waive, or deny certification that a proposed activity is in conformance with state water-quality standards. Projects covered under IWRP may require a Section 401 certification from the RWQCB which is essentially a “permit” for discharges to waterways that may occur during the construction phase of a project. Alternatively, under the state Porter-Cologne Act, the Regional Water Quality Control Board has the authority to issue a waste discharge requirement (WDR) specifying the concentration or load limits allowable for a particular activity.

⁴ The California Natural Diversity Database (CNDDDB) is the repository of information on rare, threatened, and endangered plants and animals maintained by the Habitat Conservation Division of the California Department of Fish and Game (CDFG).

⁵ One of the benefits of the U.S. Army Corps of Engineers Regional General Permits is that they provide an expedited process for ensuring compliance with FESA. When the USACE develops an RGP, USFWS and NOAA Fisheries conduct a formal Section 7 consultation with the USACE on the RGP. They issue Biological Opinions that cover activities included under the RGP. If a project qualifies for an RGP, the review process for USFWS and NOAA fisheries occurs much more quickly than if the project required independent review by these agencies. This is because when NOAA Fisheries and USFWS consult on the USACE’s RGP, they have essentially reviewed the potential effects associated with the types of activities covered by the permit. For an individual project, a “tiering letter” accompanied by an incidental take statement may be all that is required from the USFWS and NOAA Fisheries, even if a formal consultation is triggered. Of course, only projects that occur within the USACE’s jurisdiction and fit within the parameters of the RGP could benefit from this expedited review.

The RWQCBs issue WDRs to regulate activities of entities subject to the State's jurisdiction that would discharge waste that may affect groundwater quality or that may discharge waste in a diffused manner (e.g., through erosion from soil disturbance). The types of activities that fall under this requirement include dredging or filling operations, experimental or long-term work in sensitive environments, and the disposal of wastes on land. For specific situations, RWQCBs may waive the requirement to obtain a WDR for discharges to land, or they may determine that a general NPDES permit or general WDR may be more effective for a proposed discharge.

RWQCB "Triggers"

The need for a 401 certification or WDR is triggered by the potential for an activity to result in the release of waste material into a waterway. Any project that requires a Federal permit or license for an activity that may result in the discharge of dredge or fill material must obtain certification from the State. Specifically, when applying for a federal authorization (e.g., Section 404 or Section 10 authorization from the USACE) this would trigger the need for Section 401 compliance. Even if the goal of a particular project (erosion control project for example) is the reduction of sediment and pesticide delivery to streams, the initial implementation of these types of projects may result in discharges of sediments to waterways. For example, grading activities, stream bank restoration, preparations for planting, and construction of underground drainage facilities may result in a short-term increase in erosion potential that would trigger the need for a 401 certification.

California Department of Fish and Game (CDFG)

CDFG Requirements Applicable to Restoration Activities Carried out Under IWRP

Under Section 1600 of the California Fish and Game Code, anyone proposing to carry out an action in a river, creek or stream must notify the California Department of Fish and Game, which is then responsible for determining if there is a need for a Streambed Alteration Agreement. A Streambed Alteration Agreement basically is a contract between the applicant and CDFG regarding what will and will not be done in the riparian zone and stream course.

CDFG is also responsible for enforcing the mandates of the California Endangered Species Act (CESA) and they have jurisdiction over species listed as protected under this state law. In some cases, CDFG may issue incidental take statements similar to the federal agencies USFWS and NOAA Fisheries. Section 2081 (Incidental Take) Agreements are similar to HCPs described above. Species listed as "Fully Protected" by the State are afforded an higher level of protection which can result in stringent restrictions on activities occurring in areas where these Fully Protected species could potentially occur. Incidental Take of Fully Protected species is prohibited unless the project's express purpose is for the recovery of that species (SB 412).

CDFG "Triggers"

Notification of CDFG is required whenever a project will substantially divert, obstruct, or change the natural flow or bed, channel, or bank of any river, stream, or lake designated by CDFG in which there is at any time an existing fish or wildlife resource or from which these resources derive benefit, including clearing or grading of land. Notification is generally required for any project that will take place in or in the vicinity of a river, stream, lake, or their tributaries. This includes rivers or streams that flow at least periodically or permanently through a bed or channel with banks that support fish or other aquatic life and watercourses having a surface or subsurface flow that support or have supported riparian vegetation. This requirement may in some cases apply to any work undertaken within the 100-year floodplain of a body of water or its tributaries, including intermittent streams and desert washes. As a general rule, however, it applies to any

work done within the annual high-water mark of a wash, stream, or lake that contains or once contained fish and wildlife, or that supports or once supported riparian vegetation. California Fish and Game code Section 1600 allows CDFG to propose reasonable modifications to the implementation and maintenance of a project if fish and wildlife resources may be substantially adversely affected by such practices. If CDFG determines that the project may have a substantial adverse effect on a fish or wildlife resource, a Lake or Streambed Alteration Agreement that includes measures necessary to protect fish and wildlife will be developed in coordination with CDFG and the project applicant for project activities. CDFG jurisdiction is also triggered if a project has the potential to affect a state listed threatened or endangered species.

County of Santa Cruz

County of Santa Cruz Requirements Applicable to Restoration Activities Carried out Under IWRP (Including compliance with the California Coastal Act

Santa Cruz County General Plan/Local Coastal Program

The California Coastal Act of 1976 established a Coastal Zone along the State's Pacific Coast. In Santa Cruz County, this zone extends about five miles inland from the North Coast. From Natural Bridges to 41st Avenue in Capitola, it extends about 0.6 miles inland. From Capitola to the south County boundary, it extends to Highway One. The 1994 General Plan/Local Coastal Program (GP/LCP) was adopted by the County on May 24, 1994, and certified by the California Coastal Commission on December 15, 1994 (County of Santa Cruz 1994). The GP/LCP incorporates the County's Growth Management System that includes natural and agricultural resource protection policies, policies to address urban sprawl and policies to maintain the character of the rural portion of the County. To accomplish these goals, the GP/LCP requires that all development activities be regulated through the implementation of specific County ordinances.

California Coastal Act and the Coastal Commission

Under the California Coastal Act, the Coastal Commission or a local agency to which the authority has been delegated through a Local Coastal Program (LCP), is required to administer a Coastal Development Permit program for proposed activities in the coastal zone. Where there is a certified LCP, Coastal Commission authority for enforcement of Coastal Act provisions is concurrent with that of the local government. Any action in the coastal zone triggers the need for a Coastal Development Permit. In Santa Cruz, there is an LCP in place and authority has been delegated to the County of Santa Cruz to administer the program.

Coastal Zone Development Permit Triggers

In Santa Cruz County, if a project is located within the Coastal Zone and involves any land "development," it must obtain a Level 5 development permit through the County. "Development" is defined to include:

- Construction, reconstruction, size alteration, or demolition of a structure
- Grading, removing, placement, and extraction of any earth material
- Subdivision and minor land division
- Change in the density or intensity of land use
- Harvesting of major vegetation, except for agriculture and timber harvesting

Santa Cruz County Code Chapter 16.20 (Grading Regulations)

The purpose of this chapter is to safeguard health, safety, and the public welfare; to minimize erosion and the extent of grading; to protect fish and wildlife; to protect the watersheds; to insure

the natural appearance of grading projects; and to otherwise protect the natural environment of Santa Cruz County.

Grading Permit “Triggers”

Generally, a grading permit is required for the following:

- moving more than 100 cubic yards of earth;
- creating a cut slope greater than 5 feet high;
- fills which are greater than 2 feet deep, located on slopes over 20 percent, or used for structural support; and
- all shoreline protection projects, including seawalls and rip-rap, even if less than 100 cubic yards of material.

The Grading Ordinance (County Code Chapter 16.20) provides that certain activities are exempt from grading permit requirements. These include: excavations for basements and foundations for buildings authorized under a valid building permit, cemetery graves, well and utility excavations, and routine agricultural work to prepare a field for a crop for continued agricultural use.

Grading projects involving more than 1,000 cubic yards of material must also undergo a formal environmental review under the requirements of the California Environmental Quality Act (CEQA). This type of project requires preparation of a formal environmental assessment document and a mandatory public review period.

When the grading plans conform to all relevant regulations, the application can be approved by the Senior Civil Engineer in the Environmental Planning section. Certain large grading projects require approval by the County Planning Commission at a full public hearing. The grading plans may be approved as submitted, or with conditions added to the approval. Conditions of approval vary considerably depending on the site and the specific proposal. They typically include erosion control requirements, establishing the limits and/or quantities of grading, and other requirements necessary to protect health, safety and the environment. The permit will also include a requirement to complete the grading activities within a specific time to avoid erosion problems during the rainy season.

Conditions of Approval of a Grading Permit

The project must meet all requirements of the County Code (Chapter 16.20) and General Plan. Grading projects vary considerably throughout the County, as do the properties where grading is proposed. In addition to the general requirements listed below, it's possible that special rules or constraints could apply to the property. These might include: location in the Coastal Zone, location within a designated scenic area, or the presence of an environmentally sensitive resource such as a stream, riparian area, or habitat for rare or endangered species.

General requirements applicable to most grading permit applications include:

- All plans must comply with the design standards contained in the Grading Ordinance. These technical standards cover slope angle, fill placement, road standards and related issues. (If the project involves construction of a road, should contact the

responsible Fire Department to determine their road requirements before preparing grading plans.)

- The project should be designed to maintain the natural contours of the site and to minimize grading to the greatest extent possible. Projects that propose significant alterations to natural topography, instead of minimizing the amount of earthwork (for example, utilizing retaining walls or grade beam or stepped foundations), may be denied. This issue becomes especially important in visually prominent areas in the Coastal Zone.
- The project must also conform with the County Erosion Control Ordinance. This ordinance contains standards prohibiting obstruction of natural drainage courses and generally prohibiting the construction of new roads on slopes greater than 30 percent. This ordinance also requires soil erosion to be minimized and controlled at all times, and requires preparation of a specific Erosion Control Plan.
- Grading activity is generally not approved during the rainy season, October 15th to April 15th. Grading during this period requires specific approval, and is subject to strict limitations. Grading operations should be planned for the period between April 16th and October 14th.
- Grading permits to construct a building site or an access road to serve a building site cannot be issued until the building permit for the structure is also issued.

A grading project will require periodic inspections by County staff. A final inspection is required at the conclusion of the project. If a geotechnical (soils) report or geologic report was prepared for the project (See next section “Required Analyses”), it will be necessary for the geologist and/or soils engineer to conduct periodic inspections, including a final inspection.

Santa Cruz County Code Chapter 16.22 (Erosion Control)

The purpose of this chapter is to eliminate and prevent conditions of accelerated erosion that have led to, or could lead to, degradation of water quality, loss of fish habitat, damage to property, loss of topsoil and vegetation cover, disruption of water supply, and increased danger from flooding, and to implement Local Coastal Program land use policies. The erosion control ordinance requires control of all existing and potential conditions of accelerated (human induced) erosion, sets forth provisions for project planning, preparation of erosion control plans, runoff control, land clearing, and winter operations, and establishes procedures for administering these approvals.

Erosion Control Plan “Triggers”

a) For projects where no land development permit has been issued, which may be the case for many restoration projects, the following types of land clearing would require approval of an erosion control plan:

1. Any amount of clearing in a sensitive habitat, (defined below)
2. One-quarter acre or more of clearing in the Coastal Zone if also in a least-disturbed watershed, a water supply watershed, or an area of high erosion hazard.
3. One acre or more of clearing in all areas not included in Items 1 and 2.

(b) When a land development permit has been issued, land clearing may be done according to the approved development plan:

1. For land clearing in the Coastal Zone which will be more than that shown on the approved erosion-control plan, a new land-clearing approval is required if the land is located in a least-disturbed watershed, a water supply watershed, or an area of high erosion hazard.
2. For land-clearing in any area which will include more than one acre in excess of that shown on the approved plan, a new land-clearing approval is required.

(c) Approval of land clearing shall meet the following conditions. All disturbed surfaces shall be prepared and maintained to control erosion and to establish native or naturalized vegetative growth compatible with the area. This control shall consist of:

1. Effective temporary planting such as rye grass, barley, or some other fast-germinating seed, and mulching with straw and/or other slope stabilization material;
2. Permanent planting of native or naturalized drought resistant species of shrubs, trees, etc., pursuant to the County's Landscape Criteria, when the project is completed;
3. Mulching, fertilizing, watering or other methods may be required to establish new vegetation. On slopes less than 20 percent, topsoil shall be stockpiled and reapplied.

Soils Engineering and Engineering Geology Reports "Triggers"

Soils Reports are typically not required for non-habitable structures. If one or more of the following items is true for a project, the proposed project will probably need a Soils Report. The County Geologist or a Registered Civil Engineer on the Planning Department staff will make the final determination.

1. Is the proposed building site or access roadway located on property having any undocumented or un-permitted grading (such as log landings, logging roads or prior, unauthorized grading)?
2. Is the building site or access roadway located on a proposed fill pad or embankment deeper than two feet, or will the building foundation be supported by fill?
3. Does the project propose any grading activities with heights of cuts or fills over three feet or retaining walls over three feet located within five feet (horizontally) of a property line? Or would the project have any potential to cause instability or other grading-related, impacts to adjacent property?
4. Is the proposed grading or development activity located in an area with an average slope gradient of 30% or more?
5. Does the project involve significant cut and/or fill slopes (i.e. five feet or greater in height) related to slope stabilization, landslide repairs, streambank or coastal protection structures, or retaining walls of five feet or greater height?
6. Is there evidence of high groundwater, or spring activity in the vicinity of the proposed grading?
7. Is any portion of the proposed area of development within a FEMA floodplain or floodway?
8. For projects adjacent to any (existing or proposed) slopes exceeding 33.3% slope and six feet in height, are any proposed structures located within the setback area (set back area depiction can be viewed at:

<http://sccounty01.co.santacruz.ca.us/planning/soilsguidelines.htm>

Santa Cruz County Code Chapter 16.30 (Riparian Corridor and Wetlands Protection)

The purpose of this chapter is to eliminate or minimize any development activities in the riparian corridor in order to preserve, protect, and restore riparian corridors for: protection of wildlife habitat; protection of water quality; protection of aquatic habitat; protection of open space, cultural, historical, archeological and paleontological, and aesthetic values; transportation and storage of floodwaters; prevention of erosion; and to implement the policies of the General Plan and the Local Coastal Land Use Plan.

Riparian Corridors and Riparian Exceptions

A riparian corridor is defined by the County to be a unique plant community consisting of the vegetation growing near a river, stream, lake, lagoon or other natural body of water. It serves a variety of functions important to people and the environment as a whole by:

- Preserving water quality by filtering sediment from runoff before it enters rivers and streams.
- Protecting stream banks from erosion.
- Providing a storage area for flood waters.
- Providing food and habitat for fish and wildlife.
- Preserving open space and aesthetic surroundings.

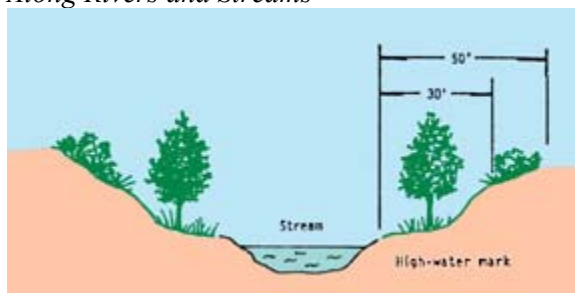
Riparian Exception “Triggers”

Santa Cruz County Riparian Corridor Protection Ordinance contains guidelines for controlling development in riparian corridors. Any “development” within riparian corridor boundaries or buffer areas requires a riparian exception. A riparian exception is required for grading, land clearing, building and tree or shrub removal in these areas. Deposition of debris and use of pesticides are prohibited.

Determining Boundaries of the Riparian Corridor as Defined by the County

A riparian corridor is determined by boundaries set by horizontal measurements. For specific widths, see County Code Section 16.30.040.

Along Rivers and Streams

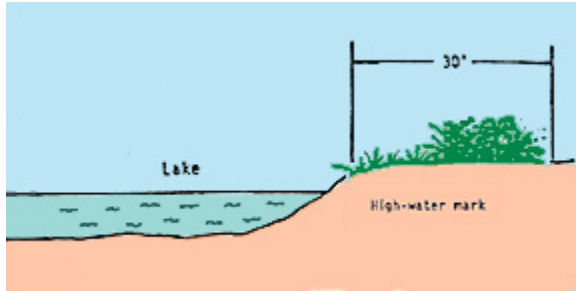


A strip containing a year-round flowing stream and the land extending 50 feet from the high-water mark on each side.

or

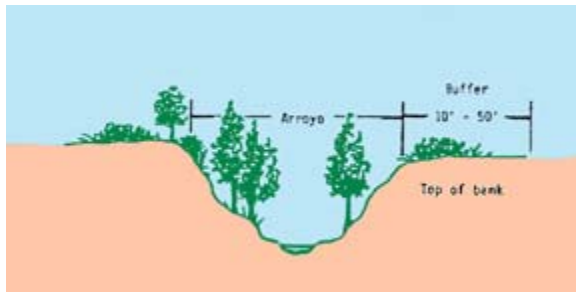
A strip containing an intermittent seasonal stream and the land extending 30 feet from the high-water mark on each side.

Around Lakes, Marshes and Lagoons



An area extending 30 feet from the high-water mark (100' in the coastal zone) of a natural standing body of water.

Buffers Along Arroyos in Urban Areas



An area extending 10 to 50 feet from the top of an arroyo, depending on the type of stream, vegetation and slope of the arroyo banks.

Riparian Woodlands

Typical riparian vegetation within a corridor includes black cottonwood, alder, sycamore, box elder, creek dogwood and willow. Riparian woodlands are shown on the County General Plan maps or can be identified by field investigation. The corridor boundary extends to the outer limit of riparian vegetation, which in some cases is beyond the horizontal distances shown in the sketches.

Certain activities are exempt from the ordinance, including:

- Continuance of a pre-existing use (both agricultural and non-agricultural).
- Work done in accordance with a valid State Timber Harvesting Permit.
- Activities listed in the California Food and Agricultural Code for pest control.
- Drainage, erosion control, or habitat restoration required as a condition of County approval of a project.

Santa Cruz County Code Chapter 16.32 (Sensitive Habitat Protection)

The purposes of this chapter are to minimize the disturbance of biotic communities, which are rare or especially valuable because of their special nature or role in an ecosystem, and which could be easily disturbed or degraded by human activity; to protect and preserve these biotic resources for their genetic, scientific, and educational values; and to implement policies of the General Plan and the Local Coastal Program Land Use Plan.

The *County Sensitive Habitats Protection Ordinance* was designed to minimize disturbance in sensitive habitats and to protect these areas for their genetic, scientific, and educational value. The County defines a sensitive habitat as:

An area important to the survival of a plant or animal species that is valued because of the unique role it plays in the environment. Sensitive species and their ecological systems are plants and animals in danger of dying out due to low numbers of individuals per population, a limited number of populations, or a highly limited, fragmented, or vulnerable habitat. Sensitive species are protected under State law, Federal law, the County General Plan or other regulations. Sensitive habitats include:

- the areas where these species live
- the areas necessary for survival of the species (such as nesting, migration, or feeding grounds)
- any location where disturbance is likely to lower population numbers
- all marine, wildlife, and educational/research reserves
- riparian corridors.

No development activities or land disturbance may occur in a sensitive habitat until a *biotic review* has been completed. This review determines what kinds of development activities can be conducted and what mitigation measures may be necessary to ensure protection of the habitat.

“Development activity” includes any action that results in disturbance to rare, endangered, or locally unique plants and animals or to their habitats. Development includes, but is not limited to:

- building, reconstruction, or alteration of structures on land, in or near natural bodies of water
- grading, land clearing
- change in density (including land divisions) or intensity of land use.

These activities may be restricted depending on the specific sensitive habitat under consideration. Development may be permitted as long as the habitat remains undisturbed; permitted as long as mitigation measures can correct any resulting adverse effects; or prohibited. *Any development activity which has received a riparian exception approved according to the provisions of Chapter 16.30 (Riparian Corridors and Wetlands Protection) may be exempted from the provisions of this chapter if the Planning Director determines that such development activity has received a review, in connection with the granting of the riparian exception, equivalent to the review that would be required by this chapter.*

Santa Cruz County Code Chapter 16.34 (Significant Trees Protection)

The purposes of this chapter are to protect and preserve the trees and forest communities located within the County's Coastal Zone as valuable resources. Removal of significant trees could reduce scenic beauty and attractiveness of the area to its residents and visitors. The preservation of significant trees and forest communities on private and public property is necessary to protect and enhance the County's natural beauty, property values and tourist industry.

Significant Tree Removal Permit: Coastal policies encourage the preservation of mature trees. However, if you have to remove a tree larger than 5 feet around, or a clump of trees (five or more) that are each 3 feet around, you must first obtain a permit. Trees that become so hazardous that they are a threat to life or property may be removed immediately, but you must notify the Planning Department within 10 business days.

Santa Cruz County Code Chapter 16.42 (Historic Preservation)

The purpose of this ordinance is to designate, preserve, protect, enhance, and perpetuate those designated historic structures, districts and sites which contribute to the cultural benefit of Santa Cruz County, and to provide for this, and future generations, examples of the physical surroundings of past generations; to foster civic awareness and pride in the rich diversity of the County's heritage; to enhance property values and the stability of the neighborhoods and areas in the County; and to encourage preservation and maintenance of the cultural and historical heritage of the County for purposes of education and the fostering of the knowledge of the past.

Santa Cruz County Code Chapter 16.44 (Paleontological Resources Protection)

The purpose of this ordinance is to protect the paleontological resources for their scientific and educational values based on the policies and designations contained in the GP/LCP.

Santa Cruz County Code Chapter 16.50 (Agricultural Land Preservation and Protection)

The purposes of this chapter are to designate, preserve and protect the commercial agricultural lands in the County for exclusive agricultural use; protect noncommercial agricultural land; to support and encourage continued agricultural operations in the county; to maintain in exclusive agricultural use commercial agricultural land which is located within utility assessment districts, while recognizing that equitable compensation may be due because of the assessment district-caused encumbrances; and to forewarn prospective purchasers and residents of property adjacent to agricultural operations of the necessary sounds, odors, dust and hazardous chemicals that accompany agricultural operations. It is an additional purpose of this chapter to ensure the maximum protection of commercially viable agricultural land by weighting decisions, in cases where there is not clear evidence of the unsuitability of the agricultural land, in favor of the preservation of the land for agricultural use.

Other possible County approvals required for IWRP projects:

Building Permit (for bridges): A building permit may be required for restoration projects that involve the installation of bridges.

Encroachment Permits (Department of Public Works): An encroachment permit may also be required by Public Works if a project involves the placement of any structure (such as a drainage outlet for example) in a County right-of-way. Encroachment permits are obtained through the County Department of Public Works.

California Environmental Quality Act (CEQA) Compliance

CEQA's main objectives are to disclose to decision makers and the public the significant environmental effects of proposed activities and to require agencies to avoid or reduce the environmental effects by implementing feasible alternatives or mitigation measures. CEQA applies to all discretionary activities proposed to be carried out or approved by California public agencies, including state, regional, county, and local agencies, unless an exemption applies. CEQA applies to private activities that require discretionary governmental approvals.

Under CEQA, there are four types of agencies that may be involved in a CEQA review process. The lead agency is the California government agency that has the principal responsibility for carrying out or approving a project, and therefore is also responsible for preparing the CEQA documents. The lead agency is responsible for deciding whether a negative declaration or an environmental impact report (EIR) will be required, and for determining the scope and content of that document. The lead agency is required to make changes in a project to lessen or avoid significant effects, when feasible, or to disapprove a project to avoid significant effects unless the project's benefits outweigh those effects.

A responsible agency is a California governmental agency other than the lead agency that also has a legal responsibility for carrying out or approving a project. A responsible agency must review the lead agency's CEQA document and use the document when making a decision on the project.

A trustee agency is one having jurisdiction over certain resources held in trust for the people of California, but not having a legal authority over approving or carrying out the project. Four state agencies are designated as trustee agencies: the California Department of Fish and Game with regard to fish and wildlife of the state, native plants designated as rare or endangered, game refuges, and ecological reserves; the State Lands Commission with regard to state-owned sovereign lands, such as the beds of navigable waters and state school lands; the California Department of Parks and Recreation, with regard to units of the state park system; and the University of California, with regard to sites within the Natural Land and Water Reserves System. Trustee agencies must be notified of CEQA documents relevant to their jurisdiction.

Finally there are agencies with jurisdiction by law, which comprise all other agencies having legal jurisdiction with regard to a project, including each city or county that borders on a city or county within which the project is located; and state, federal and local agencies that exercise authority over resources that may be affected by the project. Agencies with jurisdiction by law must be consulted in the process of preparing an EIR.

The CEQA process also has a public participation component including the scoping process, public notice and public review of CEQA documents, public hearings, and by requiring agencies to respond to public comments in final EIRs.

Each project carried out under IWRP must be CEQA-compliant. The County will likely be the lead CEQA agency for many of the IWRP projects. In some cases, other local or state agencies could take the lead. The DP Coordinator will work with project leads and the DP TAC to ensure that the appropriate CEQA lead is identified for each project.

The Partners in Restoration Permit Coordination Program

The Santa Cruz County Resource Conservation District (RCD), the USDA Natural Resources Conservation Service (NRCS), and Sustainable Conservation have been working to develop a permit coordination program for environmentally beneficial projects on private lands in Santa Cruz County, with funding from the Coastal Conservancy, the NRCS, and the Community Foundation of Santa Cruz County. Under the permit coordination program, permitting agencies will enter into programmatic agreements with the NRCS and Santa Cruz County RCD that cover fifteen specific, standardized conservation practices. The permit coordination program will require that landowners follow NRCS designs and specifications for conservation work. This results in high quality work and ensures follow up and monitoring on each conservation project completed in association with the NRCS and Santa Cruz County RCD.

In some cases, an IWRP project may fit within the parameters of the permitting approvals negotiated for the Santa Cruz Countywide Partners in Restoration Permit Coordination Program. In these cases, the landowner no longer needs to obtain permits on their own. In order for a project to be carried out under the permit coordination program, a project must either be led by a landowner who works with the RCD and NRCS or it must be an RCD-led project. The project activities (nature of work and size of the project) must also fit within the parameters of the permit coordination program. Once the programmatic approvals are in place from the agencies, the NRCS and RCD make the determination as to whether or not a particular project may be carried out under the permit coordination program. The goal is to have programmatic approvals in place for construction season 2004.

Integrated Watershed Restoration Program (IWRP) for Santa Cruz County
IWRP Design & Permitting Coordination Process Guidelines Manual