



COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING & BUILDING

Notice of Exemption/General Rule Exemption

Project Title and No.: Zayo Group Minor Use Permit / Coastal Development Permit
C-DRC2024-00017 / ED24-159

Project Location and APN:

Public Right-of-Way
South Bay Boulevard between Santa Ysabel Avenue
and Quintana Road
Los Osos, CA 93402

Project Applicant/Phone No./Email:

Jeff Amos, Zayo Group, LLC
Jeff.amos@zayo.com
(805) 441-4871

Applicant Address (Street, City, State, Zip):

6764 Prescott Avenue Suite C, Livermore, CA 94551

Description of Nature, Purpose, and Beneficiaries of Project:

A request by **Zayo Group, LLC** for a Minor Use Permit/Coastal Development Permit (C-DRC2024-00017) to install fiber optic cable conduit along a linear length of approximately 12,663 feet. The proposed project will result in approximately 5,672 square feet of ground disturbance, and approximately 618 cubic yards of cut/fill to place bore pits and manholes within County of San Luis Obispo right-of-way, including an as-built portion necessary to repair previously completed construction to County standards. The project site starts near the intersection of South Bay Boulevard and Santa Ysabel Avenue in the community of Los Osos and terminates at the intersection of South Bay Boulevard and Quintana Road in the City of Morro Bay, with a dedicated staging area at the intersection of South Bay Boulevard and Turri Road. The project is located within the Estero Planning Area in the Coastal Zone.

Name of Public Agency Approving Project: County of San Luis Obispo

Exempt Status:

- | | |
|--|--|
| ☐ Ministerial {Sec. 21080(b)(1); 15268} | ☒ Categorical Exemption {Sec. 15301; Class: 1} |
| ☐ Declared Emergency {Sec. 21080(b)(3); 15269(a)} | ☐ Statutory Exemption {Sec. ____} |
| ☐ Emergency Project {Sec. 21080(b)(4); 15269(b)(c)} | ☒ General Rule Exemption {Sec. 15061(b)(3)} |
| | ☐ Not a Project ____ |

Exempt Status/Findings: This project is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. It can be seen with certainty that there is no possibility that this project may have a significant effect on the environment; therefore, the activity is not subject to CEQA. [Reference: State CEQA Guidelines sec. 15061(b)(3), General Rule Exemption].

Reasons why project is exempt: Additionally, this project qualifies for a Class 1 Categorical Exemption pursuant to CEQA Guidelines Section 15301 (Existing Facilities). Class 1 consists of no or negligible expansion to existing public or private facilities, including, per subsection (b), "Existing facilities of both investor and publicly owned utilities used to provide electric power, natural gas, sewerage, or other public utility services", and per subsection (c) "existing alterations to highways and streets that do not create additional automobile lanes".

The project proposes the installation of fiber optic cable along a linear length of approximately 12,663 feet

entirely in paved portions of the right-of-way within an existing County maintained arterial road. A temporary laydown yard will be utilized at the intersection of South Bay Boulevard and Turri Road during construction activities. The proposed installation will connect two existing fiber optic cables at the terminus of either side of the project route. Installation will be completed using bore pits spaced intermittently throughout the project area completed via hand trenching and horizontal directional drilling. Additionally, the project encompasses pavement repair and installation of manhole covers along the project route. The proposed installation is a negligible expansion of a reasonable length aimed to connect existing facilities.

The project is immediately adjacent to or traverses (via bridge) several Environmentally Sensitive Habitat Areas (ESHA), including wetland, terrestrial, coastal streams, and is located within a County mapped Sensitive Resource Area (SRA) for the Morro Shoreline. The project has been revised several times to reduce impacts to ESHA and any potential special status species and their associated habitat. The project proposes a minimal 672 square-feet of disturbance for construction activities, and an approximately 5,000 square-foot area of disturbance for a temporary laydown yard located within the disturbed area on the shoulder at the intersection of South Bay Boulevard and Turri Road. There are no visual impacts associated with the project as the installation is entirely located underground and will not result in a further intensification of use along the project route. Therefore, there are no special circumstances associated with the project that would create a significant adverse effect on the environment (i.e., no mitigation measures were identified for sensitive species or habitats).

No exceptions to the categorical exemption, pursuant to CEQA Guidelines Section 15300.2 are triggered as the project does not impact any scenic resources for officially designated scenic highways, is not located on a site which is included on any hazardous waste site list compiled pursuant to Government Code § 65962.5. The proposed project does not involve or does not cause a substantial adverse change in the significance of a historical resource. Additional discussion of primary issue areas are included below:

Biological Resources

The project site is located along South Bay Boulevard and has various sensitive habitats that are adjacent to, or located underneath, the installation route. Specifically, the project route crosses wetland and several creeks and streams. The project traverses existing bridges crossing Los Osos and Chorro Creeks. Additionally, the project is adjacent to terrestrial habitat. In 2016, a previous iteration of this project received a Biological Resource Assessment (BRA) that included surveys, mapped habitats within the project area, and an impact analysis that resulted in a "no-take" request submittal to the U.S. Fish and Wildlife Service (USFWS). This resulted in receipt of a "no-take" concurrence letter and agreement from the USFWS that the project and proposed avoidance measures would not result in take of the federally listed species known to occur in the area.

The project was subsequently revised, which ultimately resulted in the current proposal that modified the existing scope of work to further reduce potential impacts to native vegetation and potential endangered species habitat. This was accomplished by relocating the installation of the cable entirely within the paved bike lanes along South Bay Boulevard after the construction of a new County bridge over Los Osos Creek. The project will utilize conduit space on the new Los Osos Creek bridge and on the Chorro Creek crossing, negating the necessity to bore or directional drill within either stream. Zayo Group will notify the California Department of Fish and Wildlife (CDFW) for work occurring over Chorro Creek and implement any additional measures that may be included in a Lake and Streambed Alteration Agreement for that portion of the project, if required. However, as mentioned, the conduit will be attached to the bridge and no placement of fill will occur in the creek bed and no impacts to the creek banks are anticipated.

The Applicant provided several Biological Resources Assessments and Updates for the (current) project:

- Biological Resources Assessment, Kevin Merk Associates, 2022
- Biological Resources Evaluation Update, Kevin Merk Associates, 2024
- Biological Resources Update, Kevin Merk Associates, 2024

The BRA prepared by Kevin Merk, dated September 2022 examined the project and its history, responded to referral comments from the Morro Bay National Estuary Program on the original submittal, examined and considered County Local Coastal Plan policies, requirements, and findings required for ESHA, assessed potential impacts that occurred to biological resources from the previously completed work, and provided copies of monitoring reports for previous work completed.

The BRA noted that due to the location of the bore pits within paved road areas, the disturbed areas are the minimum necessary to complete the project and will include monitoring to identify frac-out and verify there are no impacts to jurisdictional waters. As a result, no impacts to native habitat areas that can be construed as ESHA will occur, and no ESHA habitat types are present in the work zones. The avoidance measures proposed to be implemented will ensure there will be no impacts to biological continuance of surrounding habitat. Avoidance and minimization measures are conditioned to require pre-construction surveys, environmental awareness training, and biological monitoring to ensure the project avoids impacts to special status biological resources. Additionally, staff consulted with the USFWS and based on the information provided the agency did not recommend the need for an incidental take permit.

The BRA received an evaluation updated on two occasions in 2024, both of which were prepared by Kevin Merk. The evaluation update dated March 15, 2024, again assessed impacts to biological resources from the as-built work element, and potential impacts resulting from the proposed work element. This evaluation concluded that the as-built project avoided disturbance to Clean Water Act and California Fish and Game jurisdictional areas by utilizing directional drilling, and no frac-out or disturbance to wetlands and drainage features in the area was observed. Additionally, this evaluation update concluded that the proposed work element will continue to implement avoidance measures previously identified to ensure sensitive habitats and species are not affected. A summary of the proposed work element within this BRA evaluation update incorrectly omitted the temporary laydown yard from the ground disturbance table within the scope of work discussion, which was subsequently corrected in the BRA update prepared by Kevin Merk, dated October 2024.

Cultural Resources

The project is located within a mapped Archaeologically Sensitive Area. Pursuant to the requirements outlined within County Code Section 23.07.104, the applicant has submitted an Archaeological Survey Report (R3X Group 2024) and an Archaeological Treatment and Monitoring Plan (ATP/AMP) (R3X Group 2024). The Phase 1 Cultural Resource Survey identified cultural and archaeological resources that may require project design alteration, avoidance measures, or treatment, meeting the requirements of 36 CFR 900.4(b). The project specific ATP/AMP outlines processes and procedure to assess potential impacts of the as-built and proposed work elements, including methods to classify and avoid any impacts to cultural resources cause by the completion of the project.

Consistent with the County Code Section 23.07.104, recommendations were provided within the ATP/AMP to include qualified archaeological and Native American monitoring during project related ground disturbance and delineation of exclusion zones if surface artifacts are present within the project limits. Excavations shall follow procedures outlined in the ATP/AMP, and procedures to stop work if unidentified cultural materials are unearthed during construction. Additional surveys are required if the project limits are extended beyond the

present survey boundaries.

As designed, it is unlikely that the project will encounter cultural resources due to its' location predominantly within the disturbed right-of-way. The project has been conditioned to implement the avoidance measures recommended in the Archeological Survey Report (R3X Group 2024), including adherence to the project specific ATP/AMP and compliance with County Code Section 23.05.140 to stop work in the event archaeological resources are unearthed or discovered during project construction.

Therefore, the proposed activity qualifies for a Categorical Exemption (Class 1, Existing Facilities) pursuant to CEQA Guidelines Section 15332 and is further covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. It can be seen with certainty that there is no possibility that this project may have a significant effect on the environment.

Additional Information: Additional information pertaining to this notice of general rule exemption may be found on the next page of this document and by contacting the Planning and Building Department, 976 Osos St., Rm 200, San Luis Obispo, CA 93408 (805) 781-5600.

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Pursuant to section 15061 of the State California Environmental Quality Act (CEQA) Guidelines, the preliminary review of a project includes a determination as to whether a project is exempt from CEQA. This checklist represents a summary of this project's review for exemption.

	<u>YES</u>	<u>NO</u>
1. Does this project fall within any exempt class as listed in sections 15301 through 15333 of the State CEQA Guidelines?	☐	☒
2. Is there a reasonable possibility that the project could have a significant effect on the environment due to unusual circumstances?	☐	☒
3. Is the project inconsistent with any Federal, State, or local law or administrative requirement relating to the environment?	☐	☒
4. Will the project involve substantial public controversy regarding environmental issues?	☐	☒
5. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☒
6. Does the project have the potential to achieve short-term environmental goals to the disadvantage of achieving long-term environmental goals? (A short-term impact on the environment is one which occurs in a relatively brief, definitive period of time while long-term impacts will endure well into the future.)	☐	☒
7. Does the project have adverse impacts which are individually insignificant, but cumulatively significant? Cumulatively significant means that the incremental effects of an individual project are substantially adverse when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.	☐	☒
8. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☒

On the basis of this initial evaluation, I find that the proposed project does not have the potential to cause a significant effect on the environment and is therefore exempt from CEQA.

Lead Agency Contact Person

Telephone

Signature: _____

Date: _____

12/04/2024

If filed by applicant:

1. Attach certified document of exemption finding
2. Has a notice of exemption been filed by the public agency approving the project? Yes ☐ No ☐

On November 15, 2024, the project was approved by:

- | | | |
|---|---|--|
| ☐ Board of Supervisors | ☐ Subdivision Review Board | ☐ Chief Building Official |
| ☐ Planning Commission | ☒ Planning Dept Hearing Officer | ☐ Other _____ |