



US Army Corps
of Engineers®
San Francisco District

SAN FRANCISCO DISTRICT

Regulatory Division, Eureka Field Office
601 Startare Drive, Box 14
Eureka, CA 95501

PUBLIC NOTICE

PROJECT: Dinsmore Bar Gravel Extraction

PUBLIC NOTICE NUMBER: 2007-00635N
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COMMENTS DUE DATE: February 13, 2018

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1. **INTRODUCTION:** Mercer Fraser Company (POC: Mark Benzinger, 707-443-6371), 200 Dinsmore Drive through its agent, Compass Land Group (POC: Jordan Main, 1-408-210-5929), has applied to the U.S. Army Corps of Engineers (USACE), San Francisco District, for a Department of the Army Permit to discharge fill below the Ordinary High Water Mark of the Van Duzen River in connection with the extraction of gravel (in-stream gravel mining) from the river. The applicant requests a permit for a ten-year period to remove up to 50,000 cubic yards of gravel, sand and other aggregate products annually from the river by bar skimming and trench excavation with heavy equipment. This Department of the Army permit application is being processed pursuant to the provisions of Section 404 of the Clean Water Act of 1972, as amended (33 U.S.C. § 1344 *et seq.*).

2. PROPOSED PROJECT:

Project Site Location: The project site is located on the Dinsmore Bar immediately south of Highway 36 at river mile 54 (APN 18-44-02), approximately 2 miles east of the community of Dinsmore, in Trinity County, California, in the south half of Section 18, Township 1 North Range 6 East, Humboldt Meridian (HBM), Dinsmore USGS Quadrangle, and about 1 mile west of the Mad River Ranger Station (Six Rivers National Forest). See attachment 1.

Project Site Description: The Dinsmore Bar has been used for aggregate extraction and processing operations since the late 1980s. Annual aggregate extraction operations at the Dinsmore Bar typically disturb approximately 30 acres. See attachment 2.

A prominent gravel stockpile and processing site is visible from Highway 36 and takes up approximately 30 acres of river terrace adjacent to the right bank of the river.

The gravel processing site contains aggregate stockpiles, screen plant/crusher, an office, scales, equipment storage and parking, settling ponds for process water and runoff control, and other miscellaneous facilities and structures. An earthen or gravel berm separates the river from the processing plant, just above Ordinary High Water of the river (approximately 2,660 feet MSL).

Past and proposed extraction areas are located on the point or apex of the gravel bars along the right bank. These areas have undergone both relative shallow bar skimming and trenching operations (deeper cut into the river channel) side by side on the point bar. Downstream or west of the gravel extraction area and gravel stockpile is a rectangular trench feature, smaller than the proposed extraction that appears to have been excavated in the past.

Project Description: The applicant proposes to extract a maximum of 50,000 cubic yards total of sand, gravel and other aggregate annually from the Van Duzen River, a portion of which would be removed from a rectangular trench excavation located adjacent to and parallel to river flow. An additional portion of gravel volume would be removed by bar skimming on the surface of the gravel bar. These are anticipated volumes based on previous extraction volumes from past seasons. Extraction surveys and calculations will be provided to the Corps for all future extraction operations and the proposed volumes may change from year to year.

The two extraction areas are immediately adjacent to each other. Extraction area 1 (the trench site) would be located on the outside edge of the gravel bar. See attachment 2. The applicant's gravel processing plant is located adjacent to the extraction area. Extracted gravel would be hauled a short distance on existing haul roads directly to the nearby gravel stockpiles and processing area. There may be a need to temporarily stockpile gravel on the river during extraction to drain the aggregate before

delivering the material to the gravel crushing and processing plant. A summer crossing may be required in order to reach the outer extraction areas. The crossing would generally consist of an appropriately sized culvert backfilled with river run gravel.

Basic Project Purpose: The basic project purpose comprises the fundamental, essential, or irreducible purpose of the project, and is used by USACE to determine whether the project is water dependent. The basic project purpose is to extract sand, gravel and other aggregate from the river for commercial sale.

Overall Project Purpose: The overall project purpose serves as the basis for the Section 404(b)(1) alternatives analysis, and is determined by further defining the basic project purpose in a manner that more specifically describes the applicant's goals for the project, while allowing a reasonable range of alternatives to be analyzed. The overall project purpose is to extract gravel and other aggregate from the river for eventual sale and use in public and private construction or maintenance projects located throughout the region (south Humboldt County into Trinity County at a minimum).

Project Impacts: The project would result in fill discharge in the riverbed due to post-extraction bar reclamation (grading of site to fill in depressions and grade gravel bar towards the river channel and in a downstream direction) and placement of temporary abutments for a seasonal bridge. The extraction activity would cover 1.96 acres of river bed for the trenching activity and 1.83 acres of river bed for the bar skimming extraction. Total mining activity on the river would be 3.79 acres of Corps jurisdictional waters below Ordinary High Water of the Van Duzen River. Potential impacts from the proposed activities include temporary increases in suspended sediments, temporary increases in sedimentation of the channel bed, and temporary decreases in prey availability and foraging opportunities. The potential impacts are expected to be insignificant in nature and temporary in duration.

Proposed Mitigation: The amount of gravel extracted from the Dinsmore Bar will be determined by the amount of gravel recruited into the extraction area during the winter high flow periods. Extraction volumes will not exceed recruitment or replenishment volumes on the river bar. In order to prevent down cutting of the riverbed and lateral erosion of the riverbank, the proposed extraction depth will be limited to a skim or excavation floor of no lower than

2,436 feet above Mean Sea Level (site elevation is well over 2,000 feet MSL). Actual extraction depth for both trenching and skimming activities in the past have generally been no lower than 2,440 MSL.

Project Alternatives: The Corps has not endorsed the submitted alternatives analysis at this time. The Corps will conduct an independent review of the project alternatives prior to reaching a final permit decision.

3. STATE AND LOCAL APPROVALS:

Water Quality Certification: State water quality certification or a waiver is a prerequisite for the issuance of a Department of the Army Permit to conduct any activity which may result in a fill or pollutant discharge into waters of the United States, pursuant to Section 401 of the Clean Water Act of 1972, as amended (33 U.S.C. § 1341 et seq.). The applicant has recently submitted an application to the California Regional Water Quality Control Board (RWQCB) to obtain water quality certification for the project. No Department of the Army Permit will be issued until the applicant obtains the required certification or a waiver of certification. A waiver can be explicit, or it may be presumed, if the RWQCB fails or refuses to act on a complete application for water quality certification within 60 days of receipt, unless the District Engineer determines a shorter or longer period is a reasonable time for the RWQCB to act.

Water quality issues should be directed to the Executive Officer, California Regional Water Quality Control Board, North Coast Region, 5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403, by the close of the comment period.

Coastal Zone Management: The project does not occur in the coastal zone, and a *preliminary* review by USACE indicates the project would not likely affect coastal zone resources. This presumption of effect, however, remains subject to a final determination by the California Coastal Commission.

Coastal zone management issues should be directed to the District Manager, California Coastal Commission, North Coast District Office, 710 E Street, Suite 200, Eureka, California 95501, by the close of the comment period.

4. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

National Environmental Policy Act (NEPA): Upon review of the Department of the Army permit application and other supporting documentation, USACE has made a *preliminary* determination that the project neither qualifies for a Categorical Exclusion nor requires the preparation of an Environmental Impact Statement for the purposes of NEPA. At the conclusion of the public comment period, USACE will assess the environmental impacts of the project in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. §§ 4321-4347), the Council on Environmental Quality's Regulations at 40 C.F.R. Parts 1500-1508, and USACE Regulations at 33 C.F.R. Part 325. The final NEPA analysis will normally address the direct, indirect, and cumulative impacts that result from regulated activities within the jurisdiction of USACE and other non-regulated activities USACE determines to be within its purview of Federal control and responsibility to justify an expanded scope of analysis for NEPA purposes. The final NEPA analysis will be incorporated in the decision documentation that provides the rationale for issuing or denying a Department of the Army Permit for the project. The final NEPA analysis and supporting documentation will be on file with the San Francisco District, Regulatory Division.

Endangered Species Act (ESA): Section 7(a)(2) of the ESA or 1973, as amended (16 U.S.C. § 1531 *et seq.*), requires Federal agencies to consult with either the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS) to insure actions authorized, funded, or undertaken by the agency are not likely to jeopardize the continued existence of any Federally-listed species or result in the adverse modification of designated critical habitat. As the Federal lead agency for this project, USACE has conducted a review of the California Natural Diversity Data Base, digital maps prepared by USFWS and NMFS depicting critical habitat, and other information provided by the applicant, to determine the presence or absence of such species and critical habitat in the project area. Based on this review, USACE has made a *preliminary* determination that Federally-listed species and designated critical habitat are not present at the project location or in its vicinity, and that consultation will not be required. USACE will render a final determination on the need for consultation at the close of the comment period, taking into account any comments provided by USFWS and/or NMFS.

Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA): Section 305(b)(2) of the MSFCMA of 1966, as amended (16 U.S.C. § 1801 *et seq.*),

requires Federal agencies to consult with the National Marine Fisheries Service (NMFS) on all proposed actions authorized, funded, or undertaken by the agency that may adversely affect essential fish habitat (EFH). EFH is defined as those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity. EFH is designated only for those species managed under a Federal Fisheries Management Plan (FMP), such as the *Pacific Groundfish FMP*, the *Coastal Pelagics FMP*, and the *Pacific Coast Salmon FMP*. As the Federal lead agency for this project, USACE has conducted a review of digital maps prepared by NMFS depicting EFH to determine the presence or absence of EFH in the project area. Based on this review, USACE has made a *preliminary* determination that EFH is present at the project location or in its vicinity, and that the critical elements of EFH may be adversely affected by project implementation. Pacific Coast Salmon FMP EFH may be affected by the project through temporary increases in turbidity, changes in the distribution of gravel and other substrate, and the presence of heavy equipment in proximity to the wetted channel. To address project related impacts to EFH, USACE will initiate consultation with NMFS, pursuant to Section 305(5)(b)(2) of the Act. Any required consultation must be concluded prior to the issuance of a Department of the Army Permit for the project.

Marine Protection, Research, and Sanctuaries Act (MPRSA): Section 302 of the MPRS of 1972, as amended (16 U.S.C. § 1432 *et seq.*), authorizes the Secretary of Commerce, in part, to designate areas of ocean waters, such as the Cordell Bank, Gulf of the Farallones, and Monterey Bay, as National Marine Sanctuaries for the purpose of preserving or restoring such areas for their conservation, recreational, ecological, or aesthetic values. After such designation, activities in sanctuary waters authorized under other authorities are valid only if the Secretary of Commerce certifies that the activities are consistent with Title III of the Act. No Department of the Army Permit will be issued until the applicant obtains the required certification or permit. The project does not occur in sanctuary waters, and a *preliminary* review by USACE indicates the project would not likely affect sanctuary resources. This presumption of effect, however, remains subject to a final determination by the Secretary of Commerce, or his designee.

National Historic Preservation Act (NHPA): Section 106 of the NHPA of 1966, as amended (16 U.S.C. § 470 *et seq.*), requires Federal agencies to consult with the appropriate State Historic Preservation Officer to take into

account the effects of their undertakings on historic properties listed in or eligible for listing in the *National Register of Historic Places*. Section 106 of the Act further requires Federal agencies to consult with the appropriate Tribal Historic Preservation Officer or any Indian tribe to take into account the effects of their undertakings on historic properties, including traditional cultural properties, trust resources, and sacred sites, to which Indian tribes attach historic, religious, and cultural significance. As the Federal lead agency for this undertaking, USACE has conducted a review of latest published version of the *National Register of Historic Places*, survey information on file with various city and county municipalities, and other information provided by the applicant, to determine the presence or absence of historic and archaeological resources within the permit area. Based on this review, USACE has made a *preliminary* determination that historic or archaeological resources are not likely to be present in the permit area, and that the project either has no potential to cause effects to these resources or has no effect to these resources. USACE will render a final determination on the need for consultation at the close of the comment period, taking into account any comments provided by the State Historic Preservation Officer, the Tribal Historic Preservation Officer, the Advisory Council on Historic Preservation, and Native American Nations or other tribal governments. If unrecorded archaeological resources are discovered during project implementation, those operations affecting such resources will be temporarily suspended until USACE concludes Section 106 consultation with the State Historic Preservation Officer or the Tribal Historic Preservation Officer to take into account any project related impacts to those resources.

5. COMPLIANCE WITH THE SECTION 404(b)(1) GUIDELINES: Projects resulting in discharges of dredged or fill material into waters of the United States must comply with the Guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b) of the Clean Water Act (33 U.S.C. § 1344(b)). An evaluation pursuant to the Guidelines indicates the project is dependent on location in or proximity to waters of the United States to achieve the basic project purpose. This conclusion raises the (rebuttable) presumption of the availability of a practicable alternative to the project that would result in less adverse impact to the aquatic ecosystem, while not causing other major adverse environmental consequences.

6. PUBLIC INTEREST EVALUTION: The decision on whether to issue a Department of the Army Permit will

be based on an evaluation of the probable impacts, including cumulative impacts, of the project and its intended use on the public interest. Evaluation of the probable impacts requires a careful weighing of the public interest factors relevant in each particular case. The benefits that may accrue from the project must be balanced against any reasonably foreseeable detriments of project implementation. The decision on permit issuance will, therefore, reflect the national concern for both protection and utilization of important resources. Public interest factors which may be relevant to the decision process include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

7. CONSIDERATION OF COMMENTS: USACE is soliciting comments from the public; Federal, State and local agencies and officials; Native American Nations or other tribal governments; and other interested parties in order to consider and evaluate the impacts of the project. All comments received by USACE will be considered in the decision on whether to issue, modify, condition, or deny a Department of the Army Permit for the project. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, and other environmental or public interest factors addressed in a final environmental assessment or environmental impact statement. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the project.

8. SUBMITTING COMMENTS: During the specified comment period, interested parties may submit written comments to L. Kasey Sirkin, San Francisco District, Regulatory Division, Eureka Field Office, 601 Startare Drive, Box 14, Eureka, California 95501; comment letters should cite the project name, applicant name, and public notice number to facilitate review by the Regulatory Permit Manager. Comments may include a request for a public hearing on the project prior to a determination on the Department of the Army permit application; such requests shall state, with particularity, the reasons for holding a public hearing. All substantive comments will be forwarded to the applicant for resolution or rebuttal. Additional project information or details on any subsequent project modifications of a minor nature may be obtained

from the applicant and/or agent, or by contacting the Regulatory Permit Manager by telephone or e-mail cited in the public notice letterhead. An electronic version of this public notice may be viewed under the *Public Notices* tab on the USACE website:
www.spn.usace.army.mil/Missions/Regulatory.