
SAN FRANCISCO DISTRICT

PUBLIC NOTICE

US Army Corps
of Engineers

Regulatory Branch
333 Market Street
San Francisco, CA 94105-2197

NUMBER: 26808N & 25755N

DATE: May 22, 2002

RESPONSE REQUIRED BY: June 21, 2002

PERMIT MANAGER David Ammerman

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1. **INTRODUCTION:** The Hoopa Valley Tribe (HVT), Roads Department, P.O. Box 789, Hoopa, California 95546, (Contact: Mr. Paul Kraus of Pacific Affiliates, Inc., agent for the Hoopa Tribe at (707) 445-3001) has applied for a Department of the Army permit to discharge fill in connection with the proposed extraction of approximately 18,000 cubic yards (CY) of gravel from the Tish Tang #8 gravel bar and approximately 20,000 CY of gravel from the Security East gravel bar on the Trinity River, within the Hoopa Valley Indian Reservation, in Humboldt County, California. The above two gravel extraction activities are being announced together in one Public Notice because they are similar in nature and location, but are two distinct and independent projects. The permit applications for the Tish Tang #8 gravel operation (26808N) and the Security East gravel operation (25755N) will be processed by the U.S. Army Corps of Engineers (Corps) as two separate Section 404 permits. This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344).

2. **PROJECT DESCRIPTION:** The applicant (HVT) plans to extract gravel from the Trinity River at two locations, areas known as Tish Tang #8 gravel bar and Security East Bar. The project description for each is as follows:

Tish Tang #8 - The Tish Tang #8 gravel operation is a new gravel operation and has not been previously permitted by the Corps. As shown on the attached drawings (Sheets 1 and 2 of 3), approximately 15,000

CY of gravel would be removed by shallow skimming of the bar at Area #1 (Sheet 2 of 3), near the middle third of the gravel bar. Extraction would consist of a two foot average cut within Area #1. A second small bar skim is proposed at Area #2, located near the downstream end of the side channel bar and downstream from the proposed haul road crossing. Extraction at Area #2 would remove approximately 3,000 CY of gravel. Extraction at Area #2 would consist of a two foot average cut within the boundary of Area #2. The extraction method at both areas would involve shallow skimming following the bar contour. No gravel extraction would occur in the portion of the bar between Area #1 and Area #2.

All proposed extraction would take place on the exposed portions of the gravel bar that become inundated during periods of moderate to high flow. Extraction operations would avoid the upstream portion of the bar in order to maintain channel configuration and prevent moderate flow overtopping the bar. Gravel would be skimmed from the surface of the bar with a bulldozer, or front end loader, and pushed into piles within the excavation area boundary. Skimming and temporary stockpiling operations would be conducted within the delineated extraction areas. No trenches or pits would be excavated as part of this operation.

Aggregate would be removed from the Tish Tang #8 gravel bar in 10-wheel dump trucks filled by a front end loader. Dump trucks would travel to and from the Cal-Pac processing facility (shown west of Area #2)

and the extraction site via the temporary bridge crossing. The bridge crossing would consist of a brow log and gravel abutments supporting a 90 foot long rail car bridge. The crossing would be placed at the northwest corner of the "no extraction" area as shown on Sheet 2 of 3. The bridge placement plan is to secure a brow log to the existing bedrock on the left bank, drilling and cabling the log in place. One end of the railcar would be placed on the left bank brow log. Equipment (bulldozer or loader) would cross the stream at low flow and construct the east end of the bridge gravel abutment and secure a brow log on the east abutment. Approximately 50 CY total of gravel fill would be required for the gravel abutments. After placement of the abutments and hinging of the bridge, the bridge would be yarded with a bulldozer or loader by a cable attached to the east end of the bridge.

The applicant states installation of the bridge would occur when river flows recede to low water by approximately August or September. Due to salmonid run timing in the Trinity River, the crossing, including all approach fills, would likely be removed by October 1.

In addition, to the crossing described above, the applicant proposes a second crossing at the upstream end of the bar near the mouth of Heck Creek. To access the bar, re-establishment of a previously utilized road would be needed. The road, which enters the channel area downstream of the mouth of Heck Creek, was formerly used for fisheries activities. The site was selected for the vehicle crossing due to the low flow conditions that historically occur at this riffle area in the river. A bulldozer or loader would be used to ford the channel at the upstream end of the bar and this equipment would remain on the bar for the duration of the extraction period. The equipment would exit and cross the bar again at this location after removal of the east bank bridge abutment and seasonal reclamation of the gravel extraction area.

Security East Bar - The Corps issued a Section 404 Letter of Permission to HVT on July 20, 2001, to extract gravel from the Security East Bar, pursuant to an amendment of the Letter of Permission (LOP) for Gravel Mining and Extraction Activities in Humboldt County (LOP 96-1). For the 2001 season, 13,735 CY of gravel was extracted from the Security East Bar. LOP 96-1 expired on October 31, 2001. For the 2002 season and at the request of the HVT, the Security East Bar gravel extraction and the Tish Tang Bar extraction will be processed as individual Section 404 Corps permits instead of processing under the proposed LOP 2002-1 for gravel mining activities in Humboldt County. An existing access road leading to the right bank was bladed and improved for the 2001 season and will also be used for the 2002 season. Excavation for 2002 would be conducted with front end loaders and dump trucks. No stockpiles would be placed on the Security East Bar. All gravel would be hauled directly to an upland gravel processing site, likely to be the Cal-Pac mill site which would also contain stockpiles from the Tish Tang #8 extraction. HVT estimates that 20,000 CY of gravel would be extracted from the Security East Bar for the 2002 season (see Sheets 1 and 3 for the Security East Bar location and operation).

3. SITE DESCRIPTION: The proposed Tish Tang #8 gravel extraction site is located east of Highway 96 and the existing Hoopa Valley Tribe Cal-Pac Bar Processing Facility, and at the south end of the community of Hoopa (south of the old aircraft landing strip). The extraction area is located on a right bank bar of the Trinity River at River Mile 15. There is no access to the site from the right bank, all access to this bar must be from the left bank. The Trinity River flows in a south to north direction at this location. Two tributaries to the Trinity River, Campbell Creek and Heck Creek enter the river from the left bank. The gravel bar itself is sparsely vegetated, with some young willow/riparian shrub growth on a point of the bar that extends toward the left bank. There is a well established riparian

corridor on both sides of the river with typical dominant riparian species being narrow leaved willow (*Salix exigua*). Less common is black cottonwood (*Populus balsamifera* ssp. *trichocarpa*), big leaf maple (*Acer macrophyllum*), dogwood (*Cornus nuttali*), and red alder (*Alnus rubra*). Mixed oak woodlands border the gravel bar along its northeastern edge, including canyon live oak and black oak.

Security East Bar - The Security East Bar is located east of Highway 96, approximately two to three miles north of the Tish Tang #8 extraction site, and at River Mile 12. This bar is on the right bank of the Trinity River. Access to this site is from the right bank via Tish Tang a Tang Road on the east side of the Trinity River. Supply Creek is a tributary that drains into the Trinity River and is located directly across from the Security East extraction area. This gravel bar is largely unvegetated except for a narrow strip of willow shrubs left untouched along the bar shoreline from the 2001 extraction. Otherwise, the riparian corridor along both banks and vegetation on the slopes above right bank of Security east Bar are similar in species and composition to the Tish Tang #8 area.

4. ON SITE MITIGATION: Tish Tang #8

Bar - The need of a temporary summer crossing of the Trinity River at the Tish Tang Bar prevents early season access to the extraction area as late spring and early summer river levels are generally high. Extraction operations on the Tish Tang Bar would occur in August or September and high flows may require an early removal of the crossing. The HVT has determined that the maximum period of operations on the Tish Tang Bar is July 1 to October 1 due to requirements associated with the bridge installation/removal and salmonid run timing.

During gravel extraction, horizontal and vertical offsets from the wetted channel would likely be larger than the minimum required in the Corps LOP

guidelines for gravel extraction in Humboldt County. Increasing the vertical offset maintains channel confinement during fall salmonid migration flows and maintains bar/channel form and function. Maintaining the horizontal offset from the low flow channel preserves the edge water habitat consisting of insects, macro-invertebrates and amphibians critical to stream health and salmonid habitat (HVT, Tish Tang Bar #8, supplement to Corps 404 permit application, March 11, 2002).

Among other mitigation or monitoring activities recommended by the HVT (HVT, Corps application supplement, March 11, 2002), include the following: (1) maintain a minimum bottom of structure clearance (summer bridge) above the Trinity River water surface of 5 feet for recreational boating access, (2) provide signs upstream and downstream of the summer crossing, visible to river travelers, warning of low clearance crossing, (3) the Tribal Fisheries Department would initiate snorkel surveys prior to, during and after the gravel extraction and related activities to determine presence, timing and location of salmonid spawning redds, (4) conduct Trinity River turbidity monitoring associated with the summer crossing and bridge abutment fill placement, (5) reclaim (winterize) access roads to prevent/minimize water runoff and resultant sedimentation as well as preventing increased public access, (6) plan for and limit vehicles crossing through the river channel to one round trip for the extraction period, and (7) provide daily inspections and maintenance of extraction equipment and vehicles to prevent release of petro/mechanical fluids.

Security East Bar - Many of the mitigation and monitoring measures described above for the Tish Tang Bar would also be observed on the Security East Bar. Among the proposed measures in common with both bars are: (1) After bar skimming operations are completed, the gravel shall be re-contoured, leaving the gravel bar in natural sloped conditions (sloping edge to wetted channel and drainage

trending downstream), (2) the gravel bar would have no depressions or pits deeper than one foot, and (3) all heavy equipment shall have a spill kit on site when operating in the project area.

More specific to the Security East Bar, the window of gravel operations would be longer than Tish Tang Bar. Depending on flow conditions in the Trinity River, the window of operations would be June 1 (or later) to October 15. The HVT's Riparian Review Committee requires all bar skimming operations to cease by October 15 and all equipment (after completion of bar reclamation) shall be removed from the gravel bar by November 15.

5. PURPOSE AND NEED: The HVT states that the Roads Director of the Hoopa Tribal Roads Department submitted an application in compliance with the Riparian and Protection and Surface Mining Practices Ordinance (Ordinance No. 3-92, Title 35, Hoopa Valley Tribal Code) to establish and operate the Hoopa Valley Aggregate Enterprise. Operation of the Enterprise would provide jobs for Tribal employees, directly and indirectly, and will provide a readily renewable resource for the Tribe and the surrounding area, particularly to the north. Aggregate resources would be produced for the construction and maintenance of Tribal and non-tribal roads, utility installations, housing and sales for Tribal competition in regional road construction and public works contracts. The Tribe would realize economic benefits from construction and public works contracts (HVT, supplement to Corps permit application, March 11, 2002).

6. WATER QUALITY CERTIFICATION: Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), in general, a Federally-recognized Native American Tribal applicant for a Corps permit must obtain a water quality certification from the United States Environmental Protection Agency (EPA) before a Corps permit may be issued. In the case of the Hoopa Valley Tribe (HVT), EPA

delegated to the HVT the authority to administer the Water Quality Certification Program under Section 401 of the Clean Water Act on May 17, 1996. Henceforth from that date, all activities within the boundaries of the Hoopa Valley Reservation that require Corps permits must obtain Section 401 Water Quality Certification from HVT's Riparian Review Committee. The Hoopa Valley Tribe's Road Department obtained Section 401 authorization with conditions from the Riparian Review Committee and the Tribal Chairman for the Security East Bar gravel operations on February 22, 2002. Section 401 Water Quality Certification for the HVT Road Department's proposed Tish Tang #8 gravel operations is still pending as of this writing from the Riparian Review Committee.

7. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

National Environmental Policy Act of 1969 (NEPA): At the conclusion of the 30-day public comment period, the U.S. Army Corps of Engineers (USACE) will assess the environmental impacts of the project in accordance with the requirement of the National Environmental Policy Act of 1969 (Public Law 91-190), the Council on Environmental Quality's Regulation at 40 CFR 1500-1508, and the USACE Regulations at 33 CFR 230 and 325. The final NEPA analysis will normally address the direct, indirect, and cumulative impacts that result from regulated activities within the jurisdiction of the USACE and other non-regulated activities the 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.

Endangered Species Act of 1973 (ESA): The Trinity River and its tributaries are a migratory and spawning corridor for the Southern Oregon/Northern California Coastal (SONCC) coho salmon (*Oncorhynchus kisutch*). The coho salmon is listed as threatened by the National Marine Fisheries Service (NMFS). The Trinity River and its tributaries, excluding tribal lands, is designated critical habitat for coho salmon. Both the Tish Tang Bar and Security East Bar are located on Tribal lands. Based on consideration of the Federal Government's trust responsibilities to Indian tribes, following government to government consultation with affected Indian tribes, NMFS determined that Tribal lands should be excluded from the final critical habitat designation of SONCC coho salmon (May 5, 1999, 64 FR 24049). SONCC coho salmon designated critical habitat does not occur within the above project area (or on the Hoopa Valley Indian reservation).

To address project-related impacts to salmonid fish species, the USACE will be initiating informal consultation on the Security East Bar gravel extraction and formal consultation on the Tish Tang # 8 bar gravel extraction pursuant to Section 7(a) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.). The consultation process must be concluded prior to the issuance of any Department of the Army Permit for either project.

Magnuson-Stevens Fishery Conservation and Management Act of 1996 (MSFCMA): The Trinity River occurs within Essential Fish Habitat (EFH) for the Pacific Salmon Fishery that includes both coho and chinook salmon (*Oncorhynchus tshawytscha*). The aforementioned Section 7 consultation process will also address project-related impacts to EFH.

National Historic Preservation Act of 1966 (NHPA): The Corps of Engineers archaeologist will be reviewing the proposed project to determine if any cultural resources exist on the project sites. The

Corps will consult with the State or Tribal Historic Preservation officer should such insulation be required.

8. COMPLIANCE WITH THE 404(b)(1) GUIDELINES: Projects resulting dredged or fill material discharges 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)).

9. PUBLIC INTEREST EVALUATION: The decision on whether to issue a 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 required 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, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership, and, in general, the needs and welfare of the people.

10. CONSIDERATION OF COMMENTS: The Corps is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties to consider and evaluate the impacts of this proposed project. Any comments received by the Corps will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this

proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and other public interest factors listed above.

Comments are used in the preparation of an environmental assessment and/or Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

11. SUBMITTING COMMENTS: Interested parties may submit in writing any comments concerning this activity. Comments should include the applicant's name, the number, and the date of this notice and should be addressed to the U.S. Army Corps of Engineers, Eureka Office, Attn: David Ammerman, P.O. Box 4863, Eureka, California 95502. It is Corps policy to forward any such comments, which may include objections to the applicant for resolution or rebuttal. Any person may also request, in writing, within the comment period of this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Additional details may be obtained by contacting the applicant (the Hoopa Valley Tribe, Roads Department) whose address is indicated in the first paragraph of this notice, or by contacting David Ammerman of our Eureka Office at telephone number (707) 443-0855, or by e-mail at:

dammerman@spd.usace.army.mil. Details on any changes of a minor nature, which are made in the final permit action, will be provided on request.