



US Army Corps  
of Engineers

SAN FRANCISCO DISTRICT

# PUBLIC NOTICE

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

NUMBER: 26902N      DATE: June 10, 2004  
RESPONSE REQUIRED BY: July 10, 2004

PERMIT MANAGER: David Ammerman    PHONE: 707-443-0855      Email: David.A.Ammerman@spd02.usace.army.mil

1. **INTRODUCTION:** The Shively Bridge Committee, P.O. Box 733, Scotia, California 95565 (Contact: Mr. Barry Welch at 707-722-4142), has applied for a U.S. Army, Corps of Engineers (Corps) permit to discharge gravel fill to form approach ramps during the annual installation of a summer, low water bridge. The Shively Bridge Committee requests a Corps permit of five years duration (2005-2009)(the 2004 installation would be covered under an existing Corps Nationwide Permit). The proposed project is located on the Eel River connecting Highway 254 (Avenue of the Giants) with the community of Shively, located east of the Eel River, in Humboldt County, California. This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. Section 1344).

## 2. PROPOSED PROJECT:

**Project Site:** The project site is located approximately 35 miles south of Eureka and southeast of Pepperwood. The community of Shively is located in Section 29, Township 1 North, Range 2 East, Humboldt Meridian, of the USGS Redcrest Quadrangle. The bridge connects Highway 254 (Avenue of the Giants) and Highway 101 indirectly to the community of Shively located east of the Eel River. The community of Shively is located

in a valley and floodplain of the Eel River. Scores of private residences exist in Shively and the predominant industry is agriculture including truck farming. East of Shively is also access to forest timber harvest lands owned by private lumber companies. West of the river, the approach to the bridge passes adjacent Humboldt Redwoods State Park lands which contain old growth redwood stands. Except for riparian vegetation along both banks of the Eel River, the gravel bars are usually unvegetated where the bridge approaches would be placed. Low flow conditions in the river must occur before the gravel bridge approaches can be placed.

**Project Description:** As shown in the attached drawings (Sheets 1 through 4), the applicant plans to annually install an 85-foot long flatcar bridge over the Eel River during summer low flow periods. The Shively Bridge Community has requested a five-year individual Section 404 permit from the Corps to install the Shively bridge (2005 through 2009)(installation of the Shively bridge in 2004 would be covered under an existing Nationwide Permit No. 26902N issued on July 5, 2002). The applicant would remove approximately 200 cubic yards of gravel from the adjacent gravel bar and place the same volume of material adjacent to the riverbanks to form the bridge

approaches. Boulders and logs would be placed on the river bar as bridge abutments. The flatcar bridge would be installed onto the approaches using a caterpillar-type tractor and an excavator. All work would be confined to the gravel bar and would not encroach into the live stream channel (where the low flow water line would be at the time of installation). Installation of the bridge would not require removal or disturbance of soils or riparian vegetation. After completion of the bridge installation, the river bar would be graded to the pre-project natural contours of the river bar. No dredging would occur and no permanent fill is required for this project. Installation of the bridge would begin no earlier than June 15<sup>th</sup> of any season to avoid possible impacts to migrating salmonids. In general, the bridge and gravel approaches would be removed no later than October 15<sup>th</sup> of any season.

**Purpose and Need:** The basic purpose of this project is to provide access for residents between Shively and Highways 101 and 254. The summer low water bridge is the only convenient and direct access for Shively residents to the east side of the Eel River. The overall purpose of this project is to provide general access for residents, timber harvest operators, and emergency vehicles (sheriff, fire, medical) between the main highways on the left side of the river and the community of Shively on the east side. The Shively bridge is considered an important emergency access to Highway 101 during the dry summer months and saves 40 minutes of travel time for the California Department of Forestry and Fire Protection to reach structural fires or wildfires.

**Impact:** The project will result in approximately 200 cubic yards (cy) of fill into 0.10 acres (including gravel borrow areas) of

Corps jurisdictional waters (Eel River below the Ordinary High Water mark).

**Mitigation:** No riparian or terrestrial vegetation would be removed by this project, hence there would be no mitigation required for vegetation or riparian habitat. All work would occur on the dry gravel bar at low flow river periods between June 15 and October 15 to avoid or minimize impacts to anadromous fish species. After completion of bridge installation and, also after removal of the bridge in the fall, the gravel bar would be graded to pre-project natural river bar contours. The applicant would prevent spillage of petroleum or other fluid pollution from heavy equipment during bridge installation and removal using spill kits and servicing/refueling of vehicles well above the riverbank and onto the upland terraces.

### 3. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

**National Environmental Policy Act of 1969 (NEPA):** The Corps will assess the environmental impacts of the proposed action in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. Section 4371 et. seq.), the Council on Environmental Quality's Regulations, 40 C.F.R. Part 1500-1508, and Corps' Regulations, 33 C.F.R. Part 230 and 325, Appendix B. Unless otherwise stated, the Environmental Assessment will describe only the impacts (direct, indirect, and cumulative) resulting from activities within the Corps' jurisdiction.

**Endangered Species Act of 1973 (ESA):** Section 7 of the Endangered Species Act requires formal consultation with the U.S. Fish and Wildlife Service (FWS) and/or the

National Marine Fisheries Service (NOAA Fisheries) if a Corps permitted project may adversely affect any Federally listed threatened or endangered species or its designated critical habitat. Species and critical habitat currently identified as potentially impacted by the proposed project include coho salmon (*Oncorhynchus kisutch*), Chinook salmon (*O. tshawytscha*), and steelhead (*O. mykiss*). The Eel River main stem and its tributaries are designated by NOAA Fisheries as critical habitat for coho salmon. The Corps will initiate Section 7 consultation with NOAA Fisheries regarding the potential for impacts to listed species and their critical habitat from the proposed Shively bridge installation and removal process pursuant to the ESA, as amended (16 U.S.C. Section 1531 *et seq.*).

**Magnuson-Stevens Fisheries Conservation and Management Act:** NOAA Fisheries and several interagency fisheries councils have designated specific water bodies as Essential Fish Habitat (EFH) in accordance with the Magnuson-Stevens Fisheries Conservation and Management Act. The Eel River is EFH for coho salmon and Chinook salmon. Coordination with the NOAA Fisheries in regard to EFH will be initiated concurrently with the ESA consultation, if necessary.

**Clean Water Act of 1972 (CWA):**

**a. Water Quality:** Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), an applicant for a Corps permit must first obtain a State water quality certification before a Corps permit may be issued. The applicant obtained Section 401 Water Quality Certification from the California Regional Water Quality Control Board

(RWQCB), North Coast Region by letter dated March 26, 2003. The 2003 Water Quality Certification expires on December 31, 2007.

Those parties concerned with any water quality issues that may be associated with this project should write 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 of this Public Notice.

**b. Alternatives:** Evaluation of this proposed activity's impact includes application of the guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b)(1) of the Clean Water Act (33 U.S.C. Section 1344(b)). The only other access available to Shively for Shively area residents is by a long, winding seven mile circuitous route on Shively Road. Shively Road is entered just north of the Stafford area off of Highway 101 and climbs up through timber harvest areas, mostly maintained by Pacific Lumber Company. This narrow road frequently has a mix of log truck traffic and smaller pickups or autos when the bridge is out for the winter. The increasing activity of timber harvest and truck traffic makes traffic conflict more apparent if residents use Shively Road rather than take the much shorter and faster route across Shively Bridge from the west. The old Shively Road is not practicable alternative for the summer months and there are no other access routes leading to Shively.

**Coastal Zone Management Act of 1972 (CZMA):** The project site is at least 40 miles upstream on the Eel River from the

tidewaters of the Eel and some 35 miles upstream from the Coastal Zone. Therefore the Shively Bridge does not require a permit from the California Coastal Commission. Coastal Commission jurisdiction ends at the Highway 101-Van Duzen River Bridge near Alton (junction to Highway 36).

**National Historic Preservation Act of 1966 (NHPA):** The Shively bridge has been installed in this area for decades with only one shift in location in the last 8 years. Based on a review of survey data on file with various City, State and Federal agencies, no historic or archeological resources are known to occur in the project vicinity. If unrecorded resources are discovered during construction of the project, operations will be suspended until the Corps completes consultation with the State Historic Preservation Office (SHPO) in accordance with Section 106 of the National Historic Preservation Act.

4. **PUBLIC INTEREST EVALUATION:** The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impact, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits that reasonably may be expected to accrue from the proposed activity must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered, including its cumulative effects. Among those factors are: conservation, economics, aesthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline 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.

5. **CONSIDERATION OF COMMENTS:** The Corps of Engineers is soliciting comments from the public, Federal, State and local agencies and officials, Indian Tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, 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 the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an 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 in the proposed activity.

6. **SUBMISSION OF COMMENTS:** Interested parties may submit, in writing, any comments concerning this activity. Comments should include the applicant's name and the number and the date of this Public Notice, and should be forwarded so as to reach this office within the comment period specified on Page 1. Comments should be sent to Lieutenant Colonel Michael McCormick, U.S. Army Corps of Engineers, San Francisco District, 333 Market Street, San Francisco, California 94105-2197. It is the Corps' policy to

forward any such comments that include objections to the applicant for resolution or rebuttal. Any person may also request, in writing, within the comment period of this Public 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 whose name and address are indicated in the first paragraph of this Public Notice or by contacting David Ammerman of our office at telephone 707-443-0855 or E-mail: David.A.Ammerman@spd02.usace.army.mil. Details on any changes of a minor nature which are made in the final permit action will be provided upon request.