



US Army Corps
of Engineers

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

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RESPONSE REQUIRED BY: July 10, 2004

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1. INTRODUCTION: The Humboldt Bay Municipal Water District, P.O. Box 95, Eureka, California 95502, (Contact Carol Rische, General Manager at 707-443-5018) has applied for a Department of the Army Corps' of Engineers (Corps) permit to discharge approximately 25,000 cubic yards (CY) of fill (estimated fill maximum) each year over a five-year period, in connection with conducting on-going maintenance of the Humboldt Bay Municipal Water District's (herein referred to as the "District") water supply and diversion operations on the Mad River between the Railroad Bridge near Blue Lake to the Highway 299 Bridge, in the Essex area of Humboldt County, California. The service area for the above water supply and diversion operations include industrial customers on the Samoa Peninsula and communities within the greater Humboldt Bay area (Eureka, Arcata, Blue Lake, McKinleyville, Fieldbrook, Manila, and the Humboldt Community Services District) (See Sheets 1, 2, and 3). This project would be a renewal of activities previously authorized under Department of the Army Permits: 24824N and 24824-2N issued on June 14, 2000, and June 20, 2003, respectively. 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: As shown in the attached drawings (sheets 1 through 16) dated February 5, 2004, the applicant proposes the following activities below the Ordinary High Water mark of the Mad River:

(1) Annual activities (Activity # 1) - Channel dredging and sidecasting of river-bed material for approximately

500 feet from the District's direct diversion inlet (Station # 6) across the river to the north bank (Sheets 2,3,5,8,9, and 10). The material derived from this excavation would be placed adjacent to the low water's right margin and shaped into a berm parallel to the direction of flow (Sheets 5, 9, and 10). The excavation and fill starts at the end of the existing rock jetty on the north bank of the river and parallels the low flow channel terminating at the existing rock weir grade control structure. This work would be done each year to ensure the proper flow of water into the forebay of the surface diversion facility during low river flow periods. Total estimated fill volume discharged in the Mad River for the above diversion berm is 1,050 cubic yards (CY).

(2) Activity 2 - Maintaining adequate flow to direct diversion facility (station 6) on an as-needed basis only. Excavation may occur on the south bank between stations 1 and 6. Excavation may occur in front of station 6 if aggradation occurs blocking the forebay entrance and limiting exchange of water with the low-flow channel down river or in front of station 6. Estimated fill volume ranges are 275-2,225 CY.

(3) Activity 3 on an as-needed basis only - Construction and maintenance of temporary access roads, platforms, gravel berms, and ramps to Water Collectors Numbers 1, 2, 4, or 5 to allow the District to repair and maintain the pumps housed within these Collectors. These temporary access structures are constructed by pushing river material from the surrounding area by backhoe. The ramps are constructed during low-flow periods, out of the low-flow channel. No filling of the active low-flow

channel would occur. Below are specific activities:

Activity 3a - Construction of gravel access road from the top of the bank to the riverbed and along the river bed to the location where the maintenance activities are to be performed (estimated fill volume a maximum of 8,000 CY). The portion of the temporary road that allows access from the river bank to the river bed is a ramp that is approximately 120 feet long and 17 feet wide (see Sheet 11 and 12 for typical cross sections). The portion of the temporary road along the river bed ranges in length from approximately 100 to 250 yards, and is graded only as necessary to allow vehicles to traverse to the maintenance location. These temporary roads are constructed by pushing river-run gravel from the surrounding river bed by backhoe or tractor. The roads are constructed only during low-flow periods, out of the low-flow channel - no filling of the active low-flow channel would occur. The construction roads include access to Collector Numbers 2 and 4 (see Sheets 6 and 7).

Activity 3b - Construction of a gravel access platform at Collector 1 or 2 (Sheets 5 and 6). The platform is 3 to 4 feet in height and covers a 40-foot by 40-foot area adjacent to the Collector. Estimated fill volume is 250 CY.

Activity 3c - Construction of a gravel access ramp at Collector 4 (Sheet 7). The ramp extends from the elevation of the bed to two feet below the valve deck of the Collector. The ramp ranges in length from 75 to 200 feet and in height from 10 feet to 20 feet, depending on channel topography. It is about 17 feet wide and includes a flattened 25-foot by 25 foot area at the top for crane placement. Estimated fill volume is 1,600 to 2,600 CY.

Activity 3d - Construction of a berm adjacent to the Collectors to allow occasional flushing of the Collector (Sheet 5). The berm would be constructed by pushing river bed material three to four feet high around a portion of the Collector. The length and exact

configuration of the berm would depend on the location of the river shoreline in relation to the Collector flushing discharge. The berm would be removed when flushing is complete and the discharged river water has percolated back through the riverbed. Estimated fill volume would be 50-100 CY.

(4) Activity 4a - Maintenance or repair of existing dike downstream of Station # 6 (3,500 to 5,000 CY of 1/4 ton to 4 ton rock and gravel)(Sheets 5, 13, and 14). The dike ensures adequate water surface elevation in the forebay of the direct diversion facility (Station # 6).

Activity 4b - Maintenance or repair of existing rock jetties in the vicinity of Collector No. 1 and Station # 6 (3,500 to 5,000 CY of 1/4 ton rock and gravel per jetty)(Sheets 5 and 15).

Activity 4c - Maintenance or repair of existing bank revetments on the right and left banks near Station # 6 and the right bank Collector No. 3 (Sheets 5, and 15). The revetments are approximately 200 to 800 feet in length and consist of 1/4 ton to 4-ton rocks.

Activity 4d - Maintenance or repair of existing rip-rap around Collector No. 1 and its discharge line, around Collector No. 2, and at the hydraulic control structures near Station # 6 (Sheets 5 and 16).

Fill volumes for all activities 4a-4d would vary based on extent of damage or degradation.

Total estimated fill volumes for the entire project are estimated at approximately 25,000 CY.

PURPOSE AND NEED:

The Humboldt Bay Municipal Water District requests a five-year renewal of an existing permit to continue general maintenance of existing structures and flow channels to ensure a reliable water supply for a public water system.

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 (NMFS) 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 are described below.

The Mad River supports Coho salmon (*Oncorhynchus kisutch*), and several runs of Chinook salmon (*O. tshawytscha*), with both species listed by the National Marine Fisheries Service (NMFS) as threatened pursuant to the Endangered Species Act (ESA) of 1973. In addition, the Mad River is designated in the Federal Register in 1999 by NMFS as Critical Habitat for the Coho salmon, including the project reach. In addition to wild salmon populations, the California Department of Fish and Game operates the Mad River Fish Hatchery (located in the town of Blue Lake on the north bank of the river). The purpose of this hatchery is enhancement of anadromous fish population including Coho and Chinook salmon. Trinity Associates states (Trinity Associates, November 1999) the return of adult coho and Chinook salmon to CDF&G's Mad River hatchery has declined significantly since 1988. Coho have declined 87% and

Chinook 95%. Since 1989, the total run of Coho salmon in the Mad River could be as low as 150 adults of which 49 return to the hatchery and 111 are "naturalized".

The spawning migrations begin when heavy fall rains overcome wave power and breach the sand bars at the mouths of coastal streams, allowing the fish amassing offshore to move into the streams. The fish move quickly upstream but stop if streamflow suddenly drops. Coho salmon are known to migrate up and spawn in any coastal stream accessible to them regardless of stream size (Trinity Associates, 1999).

There is scant information about the distribution of Coho salmon in the Mad River. Adult migration generally peaks during mid-November to mid-December when high water makes observation and access difficult. Tributaries near the project reach (especially Lindsay Creek and its tributaries) have been regarded as the most important Coho salmon watershed in the system. Coho salmon have also been observed in Mill Creek, North Fork Mad River, and other tributaries (Trinity Associates, 1999).

The range of chinook salmon in the Mad River watershed was a spawning run high of 1,519 adults down to a low of 19 adults between 1938 and 1964 with an average annual of 807 adults. The only fish counts for Chinook salmon since 1964 are those for Mad River Hatchery beginning in 1971. Adult Chinook salmon returns to Mad River Hatchery between 1971 and 1988 averaged 256 fish, and since 1989, averaged 22 fish, a 95% decline (Trinity Associates, 1999).

Project impacts to Coho salmon and Chinook salmon would be limited to minor, short-term, adverse impacts to possible juvenile salmon downstream runs due to minor increases in sediment from construction of protection berms, access roads, access pads to the Collectors, flushing discharge of the Collectors, repair of rip-rap structures, and annual construction of the

diversion berm at Station # 6. There would be little or no impacts to fish passage (no obstructions unless the diversion channel gradient is not maintained in a downstream direction) due to the diversion berm or any other maintenance feature of the project.

Consultation for the proposed action was completed with the issuance of a biological opinion from National Marine Fisheries Service (NOAA Fisheries) on June 12, 2003. A Habitat Conservation Plan (HCP) was also developed and a final version completed in April 2004, awaiting the final consultations from NOAA Fisheries (biological opinion) and Fish and Wildlife Service (concurrence letter).

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. Specific EFH concerns associated with this proposal include the Eel River and its tributaries. Coordination with the NMFS in regard to EFH has been addressed concurrently with the ESA consultation.

National Historic Preservation Act of 1966 (NHPA): 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. WATER QUALITY CERTIFICATION: Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), an applicant for a Corps permit must obtain a State water quality certification before a Corps permit may be issued. The applicant has provided the Corps with evidence that he has previously obtained State

water quality certification from the California Regional Water Quality Board (RWQCB), North Coast Region for Bank Stabilization and Rock Dike activities in 1991 and 1992; and for Maintenance Activities around the Collectors and surface diversion facility in 1993, 2000, and 2003. 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.

COMPLIANCE WITH THE 404 (b) (1) GUIDELINES: 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 applicant has submitted an Analysis of Alternatives for the project and it will be reviewed for compliance with the guidelines. The applicant states that there are no practicable alternative for his project. An evaluation was made by this office under the 404(b)(1) guidelines and it was determined that the proposed project is water dependent.

5. CONCLUSIONS AND RECOMMENDATIONS: Based on an analysis of the above identified impacts, a preliminary determination has been made that it will not be necessary to prepare an Environmental Impact Statement (EIS) for the subject permit application. The Environmental Assessment for the proposed action has however, not yet been finalized and this preliminary determination may be reconsidered if additional information is developed.

6. PUBLIC INTEREST EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts, which the proposed activity may

have on the public interest, requires a careful weighing of all those factors which become relevant in each particular case. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments.

The decision whether to authorize a proposal, and if so the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process. That decision will reflect the national concern for both protection and utilization of important resources. All factors, which may be relevant to the proposal, must be considered including the cumulative effects thereof. Among those are 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: 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 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 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 of the proposed activity.

8. SUBMISSION OF 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 forwarded so as to reach this office within the comment period specified on page one of this notice. Comments should be sent to the Regulatory Branch. It is Corps policy to forward any such comments which 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 whose address is indicated in the first paragraph of this notice, or by contacting Carol Heidsiek of our office at telephone 707-443-0855 or by electronic mail at carol.a.heidsiek@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