



US Army Corps  
of Engineers®

Regulatory Branch  
1455 Market Street  
San Francisco, CA 94103-1398

SAN FRANCISCO DISTRICT

# PUBLIC NOTICE

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RESPONSE REQUIRED BY: May 5, 2008

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1. **INTRODUCTION:** Bohan & Canelis Aggregates (B&CA), 600 Austin Creek Road, Cazadero, California 95421, has applied to the U.S. Army Corps of Engineers (USACE) for a five-year or ten-year Department of the Army Permit to continue the annual removal of up to 50,000 cubic yards (cys) of sand and gravel from the lower reach of Austin Creek, approximately five miles south of the Town of Cazadero, in Sonoma County, California. This individual permit 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, B&CA proposes to remove sand and gravel from areas of four bars that are exposed during summer low-flow conditions, and from seven pools situated in the low-flow channel. The excavation area would begin approximately 500 feet upstream from the confluence of Austin Creek with the Russian River and would extend 4,200 feet upstream from that point, encompassing approximately 10 acres of creekbed below the plane of ordinary high water (APNs 97-030-29, 97-030-30, 97-080-03, 97-080-06, 97-080-07, 97-230-36, 97-090-23, 97-090-44, 97-090-45, 97-090-46).

An excavation technique referred to as "alcove skimming" would be used on the interior portions of the bars to create alcove-like features that preserve both head and lateral buffer areas. In this context, the head buffer would begin at the upstream end of the bar and extend downstream to the vertical apex (the highest point of the bar). An undisturbed lateral buffer would occur between the outer edge of the bar and the low-flow channel equal in width to 25% of the widest portion of the bar. An undisturbed lateral buffer would occur along the outer bank measuring ten feet in width from the toe-of-slope. In turn, the remaining upper interior portion of the bar would be skimmed to a depth of one-foot above

the groundwater table, and the remaining lower interior of the bar would be skimmed to a depth of four feet below the groundwater table (typically two to six feet of excavation) to remove sand and gravel accumulated since the previous year. A gravel plug would be left in-place at the downstream end of the bar to temporarily isolate the lower alcove area from flowing water while skimming operations were taking place.

Pool excavation work would establish a maximum pool depth of ten feet, a pool width not exceeding one-third of the channel width, and a pool length not exceeding one and one-half of the channel width. If standing water were encountered in the pools, juvenile salmonids would be collected and relocated by a qualified fishery biologist prior to any excavation work. Since the pools would continue to collect sediment during subsequent high-flow events, the pools would be periodically excavated to maintain the target design dimensions, unless it were determined excessive bank erosion was occurring in proximity to the pools.

A combination of construction equipment would be employed to skim the bars and to excavate the pools. A bulldozer, front-end loader, or excavator would either scrape or excavate substrate material and form temporary stockpiles; in turn, a front-end loader or excavator would place the stockpiled material into a dump truck for transport to the processing plant located on the east side of Austin Creek Road. The dump truck would use existing haul roads over the outer banks of Austin Creek to avoid further bank disturbance and loss of riparian vegetation. The low-flow channel would be crossed at two or three locations to gain access to several exposed bars and pools. If flowing water were present at the crossing locations, a temporary flatcar bridge (30 feet long by 12 feet wide) would be lowered by two front-end loaders onto abutments constructed on both sides of

the low-flow channel. Each abutment would be comprised of approximately ten cys of sand and gravel skimmed from the adjacent bars to provide a one-foot vertical clearance between the water surface and bridge structure.

At the conclusion of each yearly excavation episode, the affected bars would be fine-graded to remove any pits and depressions that could otherwise entrap salmonids or impede surface drainage, and the bridge abutments would be back-graded from the water's edge to restore the pre-construction condition of the low-flow channel. All excavation, stockpiling, and reclamation grading activities would be confined to the low-flow period of 15 May and 1 November to minimize adverse impacts on water quality and to avoid the principal migratory period for salmonids. Flatcar bridge installation and removal would be further confined to the period of 15 June and 1 November. Yearly pre-excavation and post-excavation cross-section surveys of the affected bars, pools, and channel thalweg would be completed in the spring and fall to ensure the excavation volume did not exceed the current bedload transport rate and resulting aggregate recruitment volume.

**3. PURPOSE AND NEED:** B&CA indicates the purpose and need for the project are to continue the seasonal removal of sand and gravel to provide a local source of aggregate materials for construction uses, landscaping, and erosion-control in western Sonoma County. From a State and County perspective, B&CA maintains vested rights to continue aggregate excavation operations that were legally in effect prior to 1976; these operations began in 1950 and have been authorized by the USACE since 1986. Over the last five years, approximately 150,000 cys of aggregate material has been removed from the bars, or an average of 30,000 cys per year.

**4. SITE DESCRIPTION:** The lower reach of Austin Creek is characterized by a series of low-gradient meander bends and the formation of point bars that tend to accumulate large quantities of sand and gravel originating from early logging and mining operations in the upper watershed. Median daily flows range from 200 feet per second in February to 0.6 cubic feet per second in September; in the lower reach of Austin Creek, summer flows essentially become subterranean in nature, resulting in a narrow and shallow low-flow

channel or a series of isolated pools. Vegetation on the banks is comprised of mature redwoods, Douglas firs, bays, alders, box elders, willows, and black berry vines that tend to form a continuous riparian canopy. The exposed bars are generally devoid of woody vegetation but are likely to be seasonally colonized by various herbaceous species, including white sweet clover, cocklebur, Jerusalem oak, birds-foot lotus, and Indian tobacco.

**5. STATE APPROVALS:** State water quality certification or 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 (33 U.S.C. § 1341). B&CA has previously submitted an application to the Regional Water Quality Control Board (RWQCB) to obtain water quality certification for the project. No Department of the Army Permit will be issued until B&CA obtains the required certification or waiver. A waiver will be explicit, or it may be presumed if the RWQCB fails or refuses to act on a valid request for certification within 60 days after 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, Regional Water Quality Control Board, North Coast Region, 5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403, by the close of the comment period.

Section 307(c) of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1456(c)), requires a non-Federal applicant seeking a federal license or permit to conduct any activity occurring in or affecting the coastal zone to furnish a certification that indicates the activity conforms with the State's coastal zone management program. Generally, no federal license or permit will be issued until the appropriate State agency has concurred with the certification statement or has waived its right to do so.

The project does not occur in the coastal zone, and a preliminary review by USACE indicates that the project would not likely affect coastal zone resources. This presumption on effect, however, remains subject to a

final determination by the California Coastal Commission.

The project is also subject to the provisions of a Use Permit issued by the County of Sonoma and a Streambed Alteration Agreement issued by the California Department of Fish and Game.

## 6. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

**National Environmental Policy Act of 1969 (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 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. The final NEPA analysis and supporting documentation will be on file with the San Francisco District, Regulatory Division.

**Endangered Species Act of 1973 (ESA):** Naturally spawned populations of coho salmon (*Oncorhynchus kisutch*), steelhead (*Oncorhynchus mykiss*), and Chinook salmon (*Oncorhynchus tshawytscha*) inhabiting the California Coast Province, including the Russian River Basin, have been federally-listed as endangered and threatened under the Endangered Species Act of 1973, as amended (16 U.S.C. § 1531 *et seq.*). Critical habitat has been also designated for these species to include all estuarine and river reaches accessible to salmonids below longstanding, naturally impassable barriers. Designated critical habitat consists of the water, streambed, and adjacent riparian zone.

The headwaters and upper tributaries to Austin Creek presently or historically have provided spawning and rearing habitat for coho salmon and steelhead. The

lower reach of Austin Creek, including the excavation area, is presumed to principally serve as a migratory corridor for adult and juvenile salmonids. Adult coho salmon generally enter the Russian River Basin and migrate upstream to spawn from late October to mid-February and die within two weeks after spawning. Yearling juvenile coho salmon tend to migrate downstream to the ocean from March to mid-June. Steelhead are capable of repeat spawning episodes. Adult steelhead enter the Russian River Basin from late fall through April and begin spawning in December. Juvenile steelhead will remain in fresh water from one to three years and tend to migrate downstream to the ocean during the spring and early summer months.

Apparent increases of Chinook salmon abundance in the Russian River, and favorable precipitation patterns in the last several years, may have resulted in the recent colonization (or intermittent occupation) of Austin Creek. Therefore, Chinook salmon may be present in the project area during upstream adult migration in the fall and winter, and juvenile out migration in the spring.

To address project-related impacts to salmonid fish species and their designated critical habitat, the USACE will initiate formal consultation with the National Marine Fisheries Service, pursuant to Section 7(a) of the Endangered Species Act. The consultation process must be concluded prior to the issuance of any Department of the Army Permit for the project.

The headwaters and upper tributaries to Austin Creek presently provide suitable habitat for the endangered California freshwater shrimp (*Syncaris pacifica*). The preferred habitat is low-gradient, perennial streams with diverse, undercut banks with exposed roots and overhanging woody debris and vegetation. The lower reach of Austin Creek, including the excavation area, is presumed to not provide suitable habitat for freshwater shrimp due to the intermittent nature of the summer flow regime.

No other federally-listed threatened or endangered species are known to occur within the project area or in the project vicinity.

**Magnuson-Stevens Fishery Conservation and Management Act of 1996 (MSFCMA):** The Russian River Basin occurs within designated essential fish

habitat for the Pacific Salmon Fishery that includes both coho and chinook salmon. Essential fish habitat for these species corresponds to the constituent habitat elements of designated critical habitat for coho and chinook salmon. USACE has made a preliminary determination that the project is not likely to adversely affect essential fish habitat for federally managed fisheries in California waters. The aforementioned Section 7 consultation process will also address project-related impacts to essential fish habitat.

**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 archaeological resources are known to occur in the project reach or in the project vicinity. Since the exposed bars are comprised of sediments recently deposited by high water-flow events, aggregate excavation work would not likely encounter intact archaeological resources. If unrecorded historic or archaeological resources were discovered during excavation work, such operations would be suspended until USACE concluded Section 106 consultation with the State Historic Preservation Officer to take into account any project-related impacts to these resources.

**7. COMPLIANCE WITH THE 404(b)(1) GUIDELINES:** Projects resulting in 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)). An evaluation pursuant to the Guidelines indicates the project is not dependent on location in or proximity to waters of the United States to achieve the basic project purpose to extract gravel for commercial use. This conclusion raises the (rebuttable) presumption of the availability of a practicable alternative to the project-related discharges into waters of the United States that would result in less adverse impact to the aquatic ecosystem, while not causing other major adverse environmental consequences. B&CA has been informed to submit an analysis of project alternatives to be reviewed for compliance with the Guidelines.

**8. PUBLIC INTEREST EVALUATION:** 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.

**9. CONSIDERATION OF COMMENTS:** USACE 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 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 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.

**10. SUBMITTING COMMENTS:** During the specified comment period, interested parties may submit written comments to the San Francisco District, Regulatory Division, Branch, North Branch, citing the applicant's name and Public Notice Number in the letter. Comments may include a request for a public hearing on the project prior to a determination on the permit application; such requests shall state, with particularity, the reasons for holding a public hearing. All comments will be forwarded to B&CA for resolution or rebuttal. Additional information may be obtained from B&CA or by contacting Mr. Peter Straub of the Regulatory Division by telephone at 415-503-6774 or by e-mail at peter.s.straub@usace.army.mil.