



US Army Corps  
of Engineers®

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

SAN FRANCISCO DISTRICT

# PUBLIC NOTICE

**Project: SMITH RIVER GRAVEL EXTRACTION, DEL NORTE COUNTY**

NUMBER: 2002-272490N

DATE: March 18, 2009

RESPONSE REQUIRED BY: April 17, 2009

PROJECT MANAGER: Carol Heidsiek

PHONE: 707-443-0855

Email: Carol.A.Heidsiek@usace.army.mil

1. **INTRODUCTION:** The Granite Construction Company (1540 Guntoli Lane, Arcata, California, 95521) has applied for a ten-year individual permit for gravel mining on the Smith River in Del Norte County, California. This application is being processed pursuant to Section 404 of the Clean Water Act (CWA) (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. Section 403).

**PROJECT SUMMARY:** The procedure applies to gravel extraction on the unvegetated Huffman and Upper Sultan gravel bars on the Smith River, of Del Norte County. Activities that would be authorized by this procedure include but are not limited to temporary stockpiles of gravel, construction of temporary cofferdams, and road crossings. Gravel would be obtained by excavation of "horseshoe pits," alcoves, trenches, skims, or "wetland pits."

The Upper Sultan Bar is the upstream most gravel bar used for commercial mining on the Smith River. As of 2002, Granite Construction Company assumed the mining rights to the Upper Sultan Bar, which was formerly mined by North Coast Paving and Rock (a subsidiary of Redwood Empire Aggregates). Conditional Use Permits (CUP) issued by the Del Norte County Planning Department list a maximum allowable volume extraction for Upper Sultan Bar as 25,000 cubic yards (CY). The Lower Sultan Bar, located immediately downstream, has been mined in the past by another gravel operator (not affiliated with

Granite Construction). The total length of the Upper Sultan Bar is approximately 1,700 lineal feet extending along the right bank of the Smith River. The Upper Sultan Bar is accessible from North Bank Road through a locked gate and private access road. Gravel mined from this bar would be hauled out of the access road, driven west on North Bank Road, enter Highway 101 and turn south to South Bank Road, just upstream of the Highway 101 Bridge over the Smith River. From there the gravel would be placed at Granite Construction's gravel processing plant located along South Bank Road. Directly across from Upper Sultan Bar are rows of private residences adjacent to the left bank. The area between the gravel bar and North Bank Road is undeveloped, riparian-vegetated old river terrace and a hay field. During the 2002 extraction season, the upstream end of the gravel bar restricted the main Smith River low flow channel, with low flow hugging the left bank. A partial overflow channel exists near the right bank of the gravel bar

Huffman Bar, Smith River, is proposed to be mined by Granite Construction this year, though it has been harvested separately by North Coast Paving & Rock and Redwood Empire Aggregates in previous years. The Huffman Bar is located approximately 700-1000 feet east (upstream) of the Dr. Fine Bridge between the river and South Bank Road. This gravel bar is approximately 3900 linear feet in length, located in the south half of Section 12 and the center of the north half of Section 13, Township 17N, Range 1W, Del Norte County, California.

**BACKGROUND:** Granite Construction Company has operated previously under the Letter of Permission (LOP), for Del Norte County. The LOP 96-2 was authorized initially on March 28, 1997, expired on March 28, 2002, and was extended from July 26, 2002 until December 31, 2002. The current LOP procedure 2003-2 (with modifications) was valid until December 31, 2007. Granite Construction Company will be operating under an Individual Permit rather than the LOP. The Individual Permit shall include limitations intended to protect the environment and natural and cultural resources.

The project and impacts are discussed in the Biological Assessment dated March 21, 2008. Appendix A shows the project area and is attached. Also, Tables 6-1 and 6-2 list potential impacts and protective measures which Granite Construction Company will comply with under the Individual Permit. This BA is available in our Eureka Office of the Army Corps of Engineers.

### **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. Parts 1500-1508), and the Corps' Regulations (33 C.F.R. Part 230 and Part 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. The documents used in the preparation of the Environmental Assessment will be on file with the U.S. Army Corps of Engineers, San Francisco District, Regulatory Division, 1455 Market Street, San Francisco, California 94103-1398.

**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. Gravel extraction activities in the project area may adversely affect the threatened Southern Oregon/Northern California (SONCC) Evolutionarily Significant Unit (ESU) coho salmon (*Oncorhynchus kisutch*) and its critical habitat.

The Corps has completed formal consultation with the National Marine Fisheries Service on the existing LOP 2003-2, due to adverse affects to federally listed salmonids and/or their habitat. The scope and nature of the work under Individual Permit 2002-272490, will be of a smaller scope and impact than LOP 2003-2. The Arcata NOAA Fisheries Office has been provided a copy of the Biological Assessment for this action, dated March 21, 2008. The Corps initiated formal consultation with NMFS for potential impacts to the above listed salmonids in a letter dated March 9, 2009.

**Magnuson-Stevens Fisheries Conservation and Management Act:** Essential Fish Habitat - The Magnuson-Stevens Fishery Conservation and Management Act requires all Federal agencies to consult with the National Marine Fisheries Service (NMFS) on all actions, or proposed actions permitted by the agency that may adversely affect Essential Fish Habitat (EFH). Gravel operations in the project area may adversely affect EFH due to the potential for increased sedimentation and possible decrease in available foraging and migration habitat. The Corps initiated formal consultation with NMFS for potential impacts to EFH in a letter dated March 9, 2009.

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

**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.

Those parties concerned with any water quality issue

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)). An evaluation has been made by this office under the guidelines and it was determined that the proposed project is water dependent.

**Coastal Zone Management Act of 1972 (CZMA):** Section 307 of the Coastal Zone Management Act requires the applicant to certify that the proposed project is consistent with the State's Coastal Zone Management Program, if applicable. The proposed project is within the Coastal Zone.

**National Historic Preservation Act of 1966 (NHPA):** 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) or Tribal Historic Preservation Office (THPO) 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, historic 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 the Eureka Field Office, 601 Startare Drive Eureka, California, 95501. 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 Carol Heidsiek of our office at telephone 707-443-0855, writing to the Eureka Field Office or E-mail: carol.a.heidsiek@usace.army.mil. Details on

any changes of a minor nature that are made in the final permit action will be provided upon request.