



US Army Corps
of Engineers®

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

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

Project Name	Project Number
Christie Bar gravel extraction	2009-00013
Johnson/Spini and O'Neill bars gravel extraction	2009-00014
Emmerson, Blue Lake, Johnson, and Graham bars	2009-00016
Essex Bar gravel extraction	2009-00027
Miller/Almquist Bar gravel extraction	2009-00028
Guynup Bar gravel extraction	2009-00040

Project Manager: Kelley Reid

DATE: March 16, 2009
PHONE: 707-443-0855

RESPONSE REQUIRED BY: April 15, 2009
Email: Kelley.E.Reid@usace.army.mil

1. **INTRODUCTION:** This public notice covers five similar proposals: gravel extraction on the Mad River between the fish hatchery near Blue Lake, California and the U.S. Highway 101 near Arcata, California.

Eureka Ready Mix Concrete Co., Inc. (ERM), whose point of contact is Mr. Paul Kraus (4945 Boyd Road, Arcata, California, 95521), has applied for Department of the Army Corps of Engineers (Corps) permit to discharge sand and gravel below ordinary high water of the Mad River and other activities associated with extracting aggregate from the Christie Bar, (APN:516-171-06, -07, -08, -09; 516-181-05, -09, -10) between river miles (RM) 10-11 on the Mad River and 1750 Glendale Drive, which is located in the unincorporated community of Fieldbrook.

ERM has also applied for a permit for activities associated with extraction from the Johnson/Spini (504-181-18, -26, -28; 504-191-01; 507-131-83; and 507-261-09, -10, -16; and O'Neill gravel bars (507-381-04, -05, -07; 507-131-09, and -91), which will be considered under the project number 2009-00014. The Johnson Spini Bar is located at RM 7.5, downstream of the Highway 299 bridge in Arcata, California. The O'Neill Bar is located at RM 6.8

behind the ERM equipment yard and processing plant at 4945 Boyd Road, Arcata, CA 95521.

Granite Construction, Co., whose point of contact is Mr. Doug Dinsmore (1540 Guntoli Lane, Arcata, California, 95521), has applied for a permit to discharge sand and gravel below ordinary high water of the Mad River and other activities associated with extracting aggregate from the Blue Lake (APNs (312-161-020, 313-231-001, 313-231-002, 312-161-007, 313-231-003, 516-181-007 & 516-191-009), Emmerson (APNs 025-161-006, 312-151-019, & 312-151-015), Graham (APNs 507-141-011, 507-141-032, and 507-141-042) and Johnson (APN 516-161-002) gravel bars (please note that the Johnson Bar is entirely distinct from the Johnson/Spini Bar in the ERM application and is located at RM 10.7). The Emmerson Bar (RM 13) extends approximately 1/2 mile upstream of the Hatchery Road Bridge near Blue Lake, California. The Blue Lake Bar (RM 12.2) extends 3/4 mile downstream of the Hatchery Bridge. The Graham Bar is located at RM 5.5 between 1/2 mile and one mile upstream of the U.S. Highway 101 bridge over the Mad River, between McKinleyville and Arcata.

Mercer Fraser, whose point of contact is Mark Benzinger (Post Office Box 1006, Eureka, California,

95502), has applied for a permit to extract sand and gravel from the Essex Bar (APN: 504-161-010) at RM 9.5 and 89 Glendale Drive in Arcata, California, 95521.

GR Sundberg, Inc., whose point of contact is Jacque Hostler (Post Office Box 630, Trinidad, California, 95570) has applied for a permit to extract at the Miller/Almquist Bar (APN 507-261-04, -06, -11, -12, -14, and -19) is behind the Almquist Lumber store at RM 6.5 and 5211 and 5161 Boyd Road, Arcata, California.

Mr. Joel Guynup (Post Office Box 3457, Eureka, California, 95502), of Mad River Sand and Gravel, has applied for a permit to extract aggregate from the Guynup bars (APN 313-061-01, -05; and 313-081-38), which are located behind the equipment yard and processing plant near the fish hatchery on Hatchery Road in Blue Lake, California.

These applications are being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. Section 1344).

Background: As evidenced by this batched public notice, there are several gravel companies operating between RM 5 and RM 13.5 on the Mad River. Because of the intensive and proximal use on a relatively minor river, the Corps of Engineers directed Mr. Kevin Knuuti to prepare a sediment budget for the Mad River, which was completed in September 2003. This sediment budget estimates that the Mad River delivers an average of approximately 114,000 cubic yards (cy) of gravel to the extraction reach of the Mad River. Because this estimate includes an error range of about 100,000 cy, agencies and gravel companies negotiated the allowable annual volume of up to 175,000 cubic yards annually. The mean annual recruitment was divided based upon the previously permitted extraction volumes.

2. PROPOSED PROJECT: The proposed action involves continued annual gravel extraction activities, including constructing temporary stream crossings, stockpiling and salmonid habitat

improvement activities on Mad River gravel bars at the above mentioned locations. All extraction and reclamation activities are restricted to a season between June 1 and October 15 of each year, although work extensions may be granted by the Corps on a case-by-case basis until November 1.

Table 1. Proposed maximum allowable harvest volumes for the individual gravel operations.

Applicant	Maximum annual harvest volume (yd ³)	Percentage of Mad River volume cap
MRS&G	33,600	19.2
Granite	52,850	30.2
ERM	78,900	45.1
Mercer-Fraser	3,325	1.9
Miller	6,325	3.6
Total	175,000	100

All temporary crossing activities are restricted to a period between June 30 and September 15 of each year, although work extensions may be granted by the Corps on a case-by-case basis until October 1.

When potential extraction methods and locations are identified for a given year's operational bars, a set of proposed plans along with the pre-extraction monitoring data shall be submitted to the County of Humboldt Extraction Review Team (CHERT, described below), Corps, NMFS and CDFG (the interagency review team). CHERT is a team of riverine scientists appointed by the County of Humboldt Planning Department to provide recommendations to the proposed extraction plan in order to limit the amount of adverse effects from the extraction. As part of the review process, the individual operators and the interested agencies will conduct a field review of each operational bar. During the interagency review, variations to the proposal are discussed, and improved, if possible.

If approved by the interagency review team, certain habitat enhancement activities such as riparian

planting projects may be conducted outside the normal extraction season.

For more information on the proposed activities, please refer to the *Batched Biological Assessment for Aggregate Extraction Operations in the Lower Mad River, Humboldt County, CA*, which is available upon request in our Eureka Field Office.

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, Eureka Field Office, 601 Startare Drive, Slip 14, Eureka, California, 95501.

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. The proposed project will have an affect on federally listed threatened coho and Chinook salmon, as well as steelhead and their designated critical habitats. The Corps anticipates that the proposed project may result in direct (lethal) impacts to juvenile steelhead that may attempt to burrow into the gravels during seasonal bridge construction. The project area after the proposed activities may contribute fine sediments as a sediment plume during the first rains in the fall and more fine sediments, which may fill the

interstitial spaces in the gravel and pools. The sediment plumes, filled interstitial spaces, and fining of pool sediments constitute indirect impacts to designated critical habitats. The sediment plume may also affect salmonid behavior. The Corps is preparing a request for formal consultation with NMFS.

The proposed project will have no effect on federally listed species under the jurisdiction of the FWS.

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). The Corps will initiate the EFH consultation concurrently with the ESA consultation.

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 applicants currently have general waste discharge permits from the North Coast Regional Water Quality Control Board, which have various expiration dates. The Corps will not grant permits or modifications unless or until the applicants obtain the required permit or waiver. The Corps may assume a waiver of water quality certification if the State fails or refuses to act on a valid request for certification within 60 days after the receipt of a valid request, unless the District Engineer determines a shorter or longer period is reasonable for the State to act.

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 not within the Coastal Zone.

National Historic Preservation Act of 1966 (NHPA): It is extremely unlikely that if historical or cultural resources are found on the site, they would be in any type of context to provide useful information because the extraction areas are dynamic gravel bars that get reworked whenever the river runs more than 5,000 cubic feet per second. Furthermore, most of the extractions no longer occur as deep as they had even ten years ago. If previously unidentified cultural resources are discovered on the site, the items shall be returned to the Blue Lake Rancheria as quickly as feasible.

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.

In addition to the factors mentioned above, the lower Mad River is intensively mined by several operations already. The Corps' hydrologist has calculated the mean annual recruitment at approximately 100 thousand cubic yards per year (+/- 100 thousand cy); however, the County of Humboldt Extraction Review team has determined that there is no apparent net degradation at 175,000 cy. The 175,000 cy volume has been designated as the maximum that can be extracted in any year, and been fully allocated amongst the existing operators. Concurrent with the existing operators' applications, the Blue Lake Rancheria tribe has also proposed to extract up to 20,000 cy. This new proposal by the Tribe, if granted, would deprive an existing company from their settled allocation or raise the allowable extraction volume beyond the mean annual recruitment. Any comments that suggest an equitable way to renegotiate the 175,000 volume cap would be appreciated.

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 U.S. Army Corps of Engineers, San Francisco District, Regulatory Division, 1455 Market Street, San Francisco, California 94103-1398. 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 applicants whose name and addresses are indicated in the first paragraph of this Public Notice or by contacting Kelley Reid of our Eureka Field office at telephone number 707-443-0855 or by e-mail to Kelley.e.reid@usace.army.mil. Details on any changes of a minor nature that are made in the final permit action will be provided upon request.