



US Army Corps
of Engineers®

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

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

Project: Blue Lake Rancheria Gravel Mining at Tribal Bar

NUMBER: 2009-00061N

DATE: April 4, 2009

RESPONSE REQUIRED BY: April 29, 2009

PROJECT MANAGER: Kelley Reid

PHONE: 707-443-0855

Email: Kelley.e.reid@usace.army.mil

1. **INTRODUCTION:** The Blue Lake Rancheria (Tribe), whose point of contact is Mr. Eric Ramos, and whose address is Post Office Box 428, Blue Lake, California 95525, through its agent, Analytical Environmental Services, has applied for a Department of the Army permit to extract up to 20,000 cubic yards (cy) of sand and gravel from trust lands in Blue Lake, Humboldt County, California. The recently acquired historical lands of the Tribe were purchased in 2002 and put into trust. 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:** The Tribe proposes to extract gravel to fund currently unknown and unpermitted salmonid habitat improvement or restoration projects. The tribe would extract up to 20,000 cy of gravel annually from a gravel bar below the ordinary high water of Mad River, in the town of Blue Lake, California, as depicted on the attached map. As typical in the Humboldt County region, the extraction operation would use scrapers, excavators, bulldozers, loaders, dump trucks and/or other heavy equipment to remove the aggregate to a work yard above the ordinary high water mark (OHWM) of the Mad River where the material may be sorted, cleaned, mixed with other products, and loaded into trucks for delivery to a construction site. Typical extraction methods include, but are not limited to, an alcove extraction, an offset skim, a wet or dry trench, a wetland pit, a shoreline skim, and a terrace pit.

Similar to the existing operators, the proposed annual extraction would be reviewed by the interagency

review team including the County of Humboldt Extraction Review Team (CHERT), National Marine Fisheries Service (NMFS), California Department of Fish and Game, and the Corps on a voluntary basis. As a sovereign nation, the Tribe is exempt from the California Environmental Quality Act (CEQA), the Surface Mining and Reclamation Act (SMARA) and other state and local regulations.

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. 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. Although the designation of critical habitat may exclude trust lands, the sediment plume may extend beyond the trust boundaries. The sediment plume may also affect salmonid behavior. The Corps is preparing a request for formal consultation with NMFS.

The proposed project will not impact any known threatened or endangered species managed by 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 on all actions, or proposed actions permitted by the agency that may adversely affect Essential Fish Habitat (EFH). This notice initiates the EFH consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. Gravel extraction from the surfaces of gravel bars only indirectly affects the EFH of Pacific Salmonids, such that the impacts are difficult to quantify. The Corps' initial determination is that the proposed action would not have a substantial adverse impact on EFH or federally managed fisheries in California Waters; however, the Corps will initiate consultation with NMFS regarding impacts to Pacific Salmon fisheries' EFH.

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 water quality certification before a Corps permit may be issued. The applicant is a federally recognized tribe, and thereby shall obtain a water quality authorization from the Environmental Protection Agency. No Corps permit will be granted until the applicant obtains the required water quality certification.

Those parties concerned with any water quality issue that may be associated with this project should write to the Attn: Melissa Scianni, U.S. EPA Region 9, Water Division, 75 Hawthorne Street, San Francisco, California 94105 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 not water dependent.

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. 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

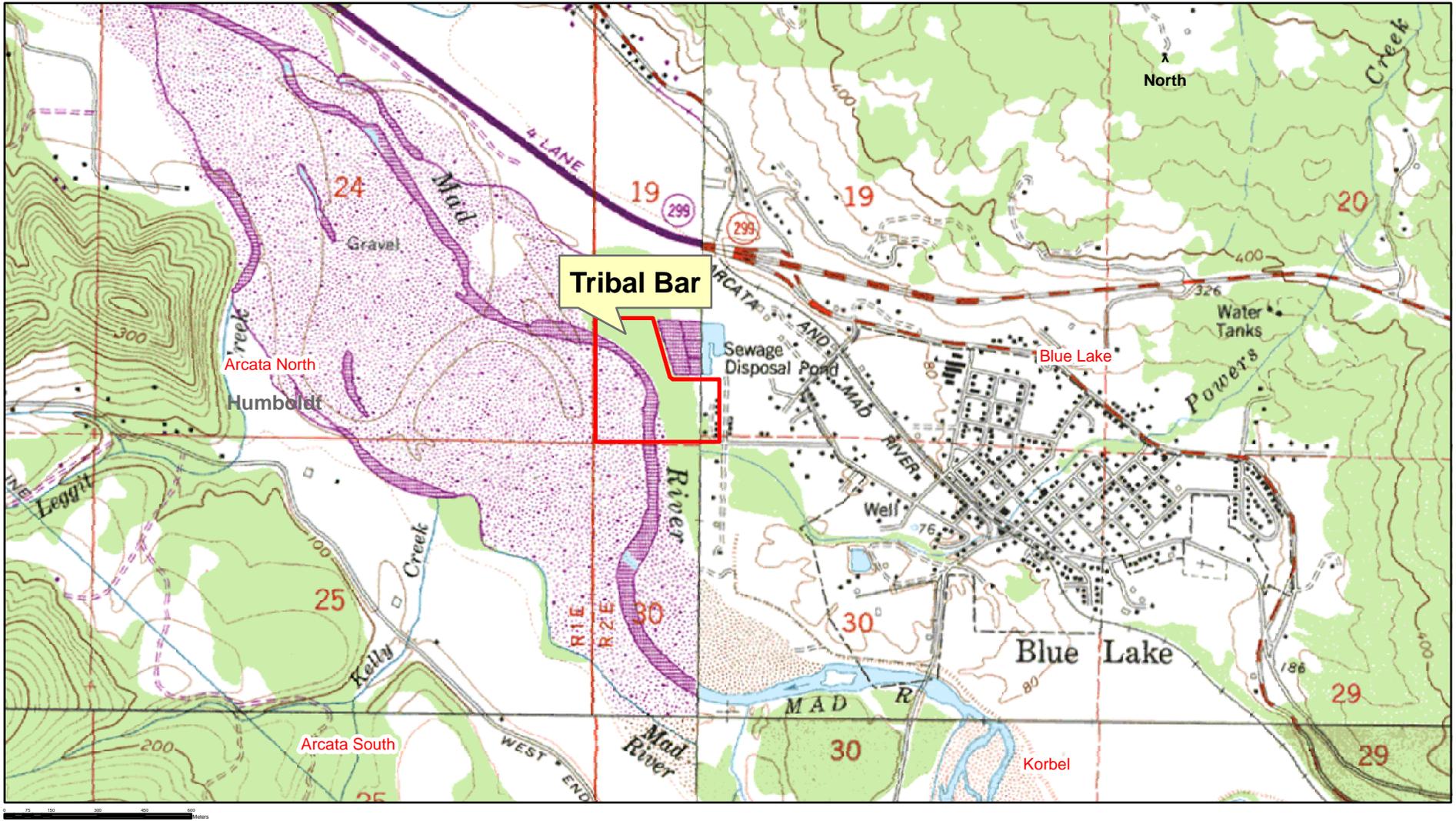
may be expected to accrue from the proposed activity must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered, including its cumulative effects. Among those factors are: conservation, economics, aesthetics, general environmental 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 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. This new proposal by the Tribe, if granted, would deprive an existing company from their settled allocation or raise the allowable extraction volume further 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 applicant whose name and address 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 E-mail: 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.



**Approx. Location of
Blue Lake Rancheria's
proposed gravel extraciton.
2009-00061**

Project location Blue Lake Rancheria gravel mining. Except for the tribal lands, the Mad River is critical habitat for SONC coho, NC steelhead, and CA coastal Chinook, all federally listed Threatened species.

 Sheet No. <Double-Click to Add Map Number>	USACE Public Notice	
	Drawn By:	Kelley Reid
	Checked by:	Jennie Breeden
Date:		