



US Army Corps  
of Engineers®

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

SAN FRANCISCO DISTRICT

# PUBLIC NOTICE

## Project: Hoopa Valley Gravel Extraction

NUMBER: 2003-278400

DATE: February 11, 2009

RESPONSE REQUIRED BY: March 13, 2009

PROJECT MANAGER: David Ammerman PHONE: 707-443-0855

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1. **INTRODUCTION:** The applicant, Hoopa Valley Tribal Council, Roads Department, Aggregates & Readymix Enterprises, P.O. Box 789, Hoopa, California 95546, through their agent (Contact: Mr. Keith Hess, consultant at 707-845-8435) has applied for a Department of the Army permit to discharge fill into waters of the United States (Trinity River) associated with gravel mining from one or more gravel bars on the river (up to seven sites identified), over a five year period (2009-2013), within the Hoopa Indian Reservation, in the community of Hoopa, in Humboldt County, California. The project sites are within American Indian lands of the Hoopa Tribe. 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 Hoopa Valley Tribe (HVT) proposes, over a five year period (2009-2013) to extract gravel and aggregate materials from six gravel bars on the Trinity River and one site containing excess gravel at the mouth of a tributary to the Trinity River. The applicant requests extraction of a total of up to 100,000 cubic yards of gravel annually on several or all of the seven extraction sites cumulatively. Gravel extraction would occur during low water periods (usually June 1 to October 15). The purpose of the gravel extraction is to obtain aggregate materials for use in tribal infrastructure (roads, buildings), and for commercial sale of aggregates or cement/concrete inside and outside the Hoopa area. Generally all extracted materials would be hauled to the old Cal-Pac mill site now used for gravel sorting, crushing and processing by Hoopa Aggregates. The seven extraction sites include:

(1) Security East Bar; the most downstream of the seven sites. It is located on the right or east bank of the river (See attached drawings, Sheet 1, 2 and 4 of 9). Access to the north end of the bar is reached via a gravel haul road off of Tish Tang Road and Highway 96. Note: The truck haul routes are shown on the drawings as white lines leading from the individual sites.

(2) Security West Bar; located on the left or west bank of the river (Sheets 1, 2 and 4 of 9). This bar is also located east of the Hoopa Fire Station and Highway 96. The most southerly access road would be used to haul gravel from this bar is a haul road directly off of Highway 96.

(3) Cal-Pac Bar; located on the west bank of the river (Sheets 1, 2, 3 and 5 of 9). The Cal-Pac Bar is also located east of Highway 96 and east of the gravel processing plant and administrative office of Hoopa Valley Aggregates & Readymix Enterprises.

(4) Tish Tang No. 8 Bar; located on the right or east bank of the river just upstream of the Cal-Pac Bar (Sheets 1, 3, and 6 of 9). Tish Tang No. 8 Bar would likely require the use of a summer bridge crossing to reach this extraction area from the gravel processing plant on the west side. The summer crossing would consist of a flatcar or bridge span at the maximum length possible. The crossing would be placed at a riffle at the upstream end of the bar. Current regulations require that the minimum distance of six feet above the water surface be maintained as long as the bridge is in place. Due to the potential for boating

and/or rafting traffic, the HVT may desire to increase the vertical distance by a foot or more. A loader would be required to drive across the main channel at the bridge location in order to construct temporary gravel abutments at each end of the bridge. Each end of the flatcar bridge could be placed on brow logs placed at the edge of the main channel. The brow logs would help to maintain the desired vertical clearance beneath the bridge. Some excavation of the west bank would be required to achieve a relatively level and safe abutment location.

(5) Campbell Bar; located on the west bank of the river just upstream of Tish Tang No. 8 and can be accessed by haul roads off of Highway 96 (Sheets 1, 3 and 7 of 9). The gravel haul route would use an unimproved roadway off the cul-de-sac at the south end of Campbell Field Lane. Campbell Field Lane is a paved two lane roadway that leads directly to the Cal-Pac Processing Plant.

(6) Tish Tang Creek Bar; a newly proposed project site (Sheets 1, 3, and 8 of 9) located on the mouth of a tributary that drains into the right bank of the river across from Tish Tang Campground. There are substantial gravel and aggregate deposits that would be extracted from this tributary. Access to this site can be reached by a haul road on the east side of the river connecting to Tish Tang Road. No summer bridge crossing is planned for this site.

(7) Tish Tang Bar; the most upstream gravel extraction site, located on the left or west bank of the river adjacent to Tish Tang Campground, a facility operated by HVT (Sheets 1, 3, and 9). The campground access road would be used to access Tish Tang Bar and then haul the gravel on Highway 96 to the Cal-Pac gravel processing plant.

The most common type of gravel extraction technique used in past years is bar or bench skimming. A front end loader or scraper would excavate a shallow layer skim on the surface of the barren gravel bar, at times pushing gravel into temporary piles or excavating and loading directly onto dump trucks for hauling to the gravel processing plant. Other extraction techniques

that may be used include trenching, wet pit, off-channel (overflow channel) grading and terrace skimming. The type of extraction proposed would primarily depend on the amount of annual winter high flow replenishment of gravel and aggregate, the state of river channel morphology and the need to protect fish habitat among many reasons. The operators would need to know how much material and what type or grade of material is available for extraction. The applicant's agent (Keith Hess) states that trenching, if used, would be performed adjacent to, but outside of, the primary low flow river channel and may at times be utilized to increase channel capacity and/or maintain the adjacent bar morphology to encourage subsequent gravel recruitment. The trenching method is also utilized to reduce bank erosion, create deep-water habitat and to reduce the aerial extent of extraction.

Some grading may also occur along off-channel locations consisting of removing high areas or terrace deposits. The agent states this may be conducted to increase overflow channel capacity, riparian vegetation and habitat values. Wet pit excavation and terrace skimming may be options to improve migrating fish holding, fish passage and other needs. The wet pits and terrace mining would generally be supplements or alternatives to the main bar skimming activity, would occur well above the low flow channel and may also occur well above Ordinary High Water of the river.

**3. PROJECT HISTORY:** The earliest records of U.S. Army Corps of Engineers (Corps) permits issued to HVT for gravel extraction on the Trinity River at Hoopa, was a Section 404 Letter of Permission (permit No. 25755N) to HVT on July 20, 2001, to extract gravel from the Security East Bar, pursuant to an amendment of the Letter of Permission (LOP) for Gravel Mining and Extraction Activities in Humboldt County (LOP 96-1). LOP 96-1 expired on October 31, 2001. For the 2002 season and at the request of the HVT, the Corps processed an individual Section 404 permit (instead of authorizing the extraction under the new Humboldt LOP procedures) for extraction of gravel from the Trinity River at Security

East Bar (Corps File No. 25755N) and Tish Tang Bar #8 (Corps File No. 26808N). The Corps circulated Public Notice No. 26808N & 25755N on May 22, 2002. The HVT elected not to extract gravel on Tish Tang Bar #8 for the 2002 season. The Corps issued individual Section 404 Permit No. 25755N to HVT on October 16, 2002. In 2003, HVT applied for an individual Corps permit to extract gravel on several mining sites on the Trinity River over a five year permit duration. The Corps issued Public Notice No. 27840N on June 9, 2003. Corps Permit No. 27840N was issued to HVT on October 13, 2003 to extract up to 100,000 cubic yards of gravel annually on one or more gravel bars in the Trinity River.

On June 2004, the Corps issued Public Notice No. 27840-1N, which notified that HVT requested the addition of Tish Tang Bar adjacent to the Tish Tang Campground for gravel extraction (not to be confused with Tish Tang Bar #8, a separate gravel bar located further downstream from the campground facilities). After the National Marine Fisheries Service (NMFS) amended their September 17, 2003 Endangered Species Act Biological Opinion for this project on August 9, 2004, the Corps issued Letter of Modification and Time Extension No. 27840-1N on September 29, 2004. This modification authorized extraction of gravel from two locations on Tish Tang Bar near the campground and the time extension authorized extension of the original permit's (27840N) expiration date from October 15, 2007, to October 15, 2008.

The Corps issued Letter of Modification No. 27840-2N on September 23, 2005, authorizing HVT to extract gravel from the Tish Tang Bar and Security East Bar. No gravel extraction occurred on any of HVT's gravel bars on the Trinity River in 2006 and 2007. The Corps issued Letter of Modification No. 2003-278405 to HVT on September 23, 2008 to extract gravel from two areas at Tish Tang Bar, one area at Cal-Pac Bar and one area at Campbell Bar. The 2008 season was the last season of authorized extraction under the five year permit issued in late 2003 (27840 and 27840-1). The HVT requested (by letter dated November 24, 2008) a Corps individual

permit to cover gravel extraction for another five years (2009-2013).

The following table shows actual gravel extraction volumes on individual gravel bars between 2001 and 2008. Bar skimming was conducted during all of these episodes of extraction:

Security East - SE  
 Security West - SW  
 Cal-Pac - CP  
 Campbell - C  
 Tish Tang #8 TT 8  
 Tish Tang TT

Yr	SE	SW	CP	C	TT8	TT
2001	13,735	-	-	-	-	-
2002	18,118	-	-	-	-	-
2003	12,667	-	-	-	-	-
2004	10,117	-	-	2,461	-	9,161
2005	5,969*	-	-	1,550*	-	5,746*
2006	No extraction from any bar this year					
2007	No extraction from any bar this year					
2008	-	-	680	789	-	13,639

\* Extraction amounts at SE and TT exceeded the authorized amounts by a total of approximately 900 cubic yards due to insufficient monitoring during extraction or survey error. Extraction at C was a last minute extraction but unauthorized. Extraction amounts during years other than 2005 were well under authorized amounts.

**4. MITIGATION MEASURES:** The gravel extraction planning and monitoring process has provided the primary mitigation measure for gravel extraction projects within Hoopa Valley. The mitigation measures have been developed after coordination with the Hoopa Valley Tribal Council, Hoopa Valley Tribal Fisheries Department, Hoopa Valley Aggregates, the Corps and NMFS. The mitigation measures include extraction guidelines and best management practices for gravel operations to protect riverine habitat and associated fish and

wildlife. Prior to each season's gravel operation, the HVT, Hoopa Valley Aggregates, Corps and NMFS meet at each proposed gravel extraction site to discuss how HVT can extract sufficient gravel for their needs at that particular site while at the same time addressing how to avoid or minimize adverse impacts to fish and wildlife and the river environment. A primary component of gravel extraction impact minimization measures is the continuation of annual monitoring programs that assess river resource trends over time. River monitoring activities include biological monitoring, evaluation and comparison of bi-annual aerial photographs coupled with on-the-ground surveying and comparison of recent and historic monumented full-channel cross sections which identify the hydrological and morphological alterations. The monitoring, pre-extraction and post-extraction cross sections and aerial photos are utilized to: a) propose annual extraction volumes; b) estimate the volume of replenished aggregate (replenishment of gravel aggregate occurs during winter high flows); c) identify changes in river alignment, as well as depositional/degradational trends; d) track successional vegetation growth, especially riparian habitat; e) locate and design extraction complementary to the natural features of the river channel; and f) track the conditions of previously extracted surfaces to better design future extractions. The applicant's agent states that throughout the last ten years, volumes annually extracted along the Trinity River have been well below published estimates of bedload recruitment.

As an example of mitigation or minimization measures, bar skimming would generally be conducted starting at an elevation one foot above the low water channel and proceeding with a longitudinal slope equal to the river and/or cross bar slope. The minimum vertical offset from the low water utilized, when bar skimming methods are implemented, has typically been at least one vertical foot above the water surface elevation at the time of channel and bar cross section surveys. These elevations may need to be surveyed later in the early summer if flows have been artificially increased from Lewiston Dam releases (the dam is located on the Trinity River

approximately 70 miles upstream of Hoopa Valley). Regulatory agencies, including NMFS, generally require that during gravel extraction, the slope of the gravel bar be excavated so that water can drain towards the river channel and trending in a downstream direction. Extraction is generally conducted so that no deep pits are left after extraction that might trap salmonid fish (particularly juveniles) and strand the fish during fluctuating river flows. Most of the gravel bars are devoid of vegetation but gravel operators are required to avoid removing established riparian vegetation. An extraction skim floor is established (depth of gravel extraction can go no lower than the authorized skim floor) to prevent possible bank erosion and possible braiding of the channel due to lateral scour of river banks.

If other gravel extraction methods are proposed for a particular gravel bar such as trenching off-channel excavation, wet pit excavation or terrace mining, the HVT, Corps and NMFS will evaluate such proposals with the intention of reaching agreement on a final extraction plan. Specific extraction plans for each gravel extraction site have not been finalized, in particular for the Tish Tang Creek tributary extraction site. Site review of proposed extraction plans usually do not begin until mid to late spring, when river flows are usually low enough to evaluate winter gravel replenishment and morphology. After these site reviews, HVT or its agent would prepare a final proposed extraction plan for each site and submit such plans to the Corps, NMFS and Hoopa Valley Tribal Council for approval.

### **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 Trinity River in the Hoopa area is a migration and spawning corridor for the Southern Oregon/Northern California Coastal (SONCC) Evolutionarily Significant Unit (ESU) coho salmon (*Oncorhynchus kisutch*), which is listed as threatened under the ESA by the NMFS. However, critical habitat for coho salmon or other salmon species is NOT designated within the boundaries of the Hoopa Indian Reservation.

**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). This notice initiates the EFH consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The proposed project would impact approximately 60 acres of EFH utilized by coho salmon and Chinook salmon. 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. Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the NMFS.

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

**a. Water Quality:** Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), in general, a Federally-recognized American Indian Tribal applicant for a Corps permit must obtain a water quality certification from the United States Environmental Protection Agency (EPA) before a Corps permit may be issued. In the case of the Hoopa Valley Tribe (HVT), EPA delegated to the HVT the authority to administer the Water Quality Certification Program under Section 401 of the Clean Water Act on May 17, 1996. Henceforth from that date, all activities within the boundaries of the Hoopa Valley Reservation that require Corps permits must obtain Section 401 Water Quality Certification from HVT's Riparian Review Committee. As soon as specific gravel extraction plans are finalized, the HVT Roads Department must apply to the Riparian Review Committee for gravel extraction work on one or more of the seven gravel extraction sites proposed for 2009 and beyond. No Corps permit will be granted until the applicant obtains the required certification from HVT. The water quality certification issuance is anticipated to be an annual process.

Those parties concerned with any water quality issue that may be associated with this project should write to Clifford Lyle Marshall, Chairman, Hoopa Valley Tribal Council, P.O. Box 1348, Hoopa, California 95546, 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)).

**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):** The project sites are on American Indian lands of independent sovereignty. The gravel project would be evaluated by the Hoopa Valley Tribal Council for potential impacts to cultural resources. If unrecorded resources are discovered during construction of the project, operations will be suspended until the Corps in cooperation with the HVT completes consultation with the 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 Lieutenant Colonel Laurence M. Farrell, Commander, U.S. Army Corps of Engineers, San Francisco District, 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 David Ammerman of our Eureka Office at telephone number 707-443-0855 or by electronic mail at: David.A.Ammerman@usace.army.mil. Details on any changes of a minor nature that are made in the final permit action will be provided upon request.