Regulatory Division, Eureka Field Office
601 Startare Drive, Box 14
Eureka, CA 95501

US Army Corps of Engineers ®
San Francisco District

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

PROJECT: Johnson & Bonanza Gulch Sediment Removal

PUBLIC NOTICE NUMBER: 2010-00428N
PUBLIC NOTICE DATE: March 21, 2011
COMMENTS DUE DATE: April 20, 2011

PERMIT MANAGER: DAVID AMMERMAN TELEPHONE: 707-443-0855 E-MAIL:David.A.Ammerman@usace.army.mil

1. **INTRODUCTION**: The Humboldt County Department of Public Works (POC: Doug Dinsmore at 707-2682687), 1106 Second Street, Eureka, California 95501 has applied to the U.S. Army Corps of Engineers (USACE), San Francisco District, for a Department of the Army Permit to discharge fill into waters of the United States (Johnson Gulch and Bonanza Gulch, tributaries to the Bear River) for the purpose of removing excess sediment, gravel and debris from two stream channels annually or periodically over a ten-year permit duration (2011-2020). The project site is approximately three (3) to five (5) miles east of the Bear River mouth at the Pacific Ocean, in Humboldt County, California. This Department of the Army permit application is being processed pursuant to the provisions of Section 404 of the Clean Water Act of 1972, as amended (33 U.S.C. § 1344 *et seq*.).

2. **PROPOSED PROJECT**:

Project Site Location: Johnson Gulch, a tributary to the Bear River, is located on Post Mile 2.18 of Upper Bear River Road in Section 19, Township 1 North, Range 2 West (Capetown USGS quadrangle, 7.5'), about 16 miles south of the community of Ferndale, and approximately three (3) miles upstream of the mouth of the Bear River at the Pacific Ocean, in Humboldt County, California. Bonanza Gulch, a tributary to the Bear River, is located on Post Mile 3.45 of Upper Bear River Road in Section 16, Township 1 North, Range 2 West (Capetown USGS quadrangle). Bonanza Gulch is upstream of Johnson Gulch an additional 1.27 miles.

Project Site Description: Both tributaries are seasonal streams draining a portion of the Coast Range mountains and both drain into the Bear River, a large perennial stream that supports anadromous salmon spawning and migration runs. Upper Bear River Road is generally a graveled and paved county road running through rural, agricultural lands along the Bear River basin. Much of the valley and hill slopes are heavily grazed by livestock including cattle and sheep. There are several residences located on the hill slopes and Bear River valley associated with agricultural use in the community of Capetown. There are no services in this area. Bonanza Gulch and Johnson Gulch often go completely dry during the hot summer months between July and early October. Portions of Bonanza Gulch and Johnson Gulch water courses are devoid of riparian cover and have been grazed by livestock to the top of the bank. As a result, bank erosion is prominent along both streams. In addition, landslides and debris flows from the mountain sides contribute fine and coarse sediment, and large cobble into each tributary. Both tributaries are in an aggraded condition with the stream banks and beds filled with excess sediment, large cobble, and debris.

Project Description: **Johnson Gulch -** As shown in the attached drawings and as described in the applicant's project description submitted in October 2010, the Humboldt County Department of Public Works (DPW) proposes to remove 1,090 to 1,815 cubic yards sediment, rock and debris from the Johnson Gulch channel. Sediment would be removed beginning at the downstream dripline of the bridge over Johnson Gulch, extending downstream of the bridge approximately 175 lineal feet or to near the outboard edge of the riparian (alder) vegetation lining the Bear River channel bank. No sediment removal is proposed above the bridge at this time. Sediment removal may occur under the bridge during normal maintenance in certain years. The average width of the channel is 28 feet. The size of the proposed work area is approximately 4,900 square feet (0.11 acres). It is anticipated that sediment would be excavated to a depth of

6-10 feet. Sediment removal would occur as often as annually over the life of the permit (DPW requested a ten year permit duration between 2011 and 2020). DPW also anticipates that the excavation work would be performed during the times when Johnson Gulch is dry (generally July through early October). A bulldozer or excavator would be used in the dry channel to remove sediment, pushing sediment, rock and debris into a berm near the top of the stream bank. DPW may alternatively remove a maximum of 1,000 cubic yards of sediment each year that bridge flow capacity needs to be increased. The excavated material would be bulldozed to central location, loaded into dump trucks, and transported to upland stockpile sites. Once the excavation nears targeted design elevations, the channel would be finish formed to assure an adequate width to depth ratio and stream meander. Large Woody Debris (LWD) recovered during excavation activities would be set in the channel and partially covered with sediment to discourage wood cutting. Stockpile sites would be located out of the flood plain and adjacent to the Upper Bear River Road to allow for wet weather access. Stockpiles would be offset a minimum of one loader bucket wide (plus or minus 9 feet) from all riparian vegetation and (deciduous/conifer) tree species. Stockpile locations would be bermed to control storm water onsite. Stockpiles would be offset from the berms a minimum of 9 feet as well. DPW may transport excavated sediment from Johnson Gulch downstream to an existing, stockpile site associated with the Branstetter Bar gravel operation.

Bonanza Gulch – Sediment, gravel, rock and debris would be removed in a similar fashion as Johnson Gulch. Estimated volume of material removed is 1,670 cubic yards to 2,775 cubic yards, also excavated to a depth of 6 to 10 feet in the dry channel of Bonanza Gulch. Excavation would begin from the bridge over Bonanza Gulch downstream approximately 250 lineal feet to near the outboard edge of the riparian vegetation lining the river bank. Sediment removal upstream of the bridge for approximately 60 feet may occur on an as-needed basis. The average width of the channel is 30 feet and the size of the proposed work is approximately 7,500 square feet (0.17 acres). Sediment removal would be excavated as often as annually over the ten year permit duration. Sediment and other excavated material would be treated in the same manner with upland stockpile locations similar to that described under the “Johnson Gulch” section.

Basic Project Purpose: The basic project purpose comprises the fundamental, essential, or irreducible purpose of the project, and is used by USACE to determine whether the project is water dependent. The basic project purpose is structural (bridge) protection

Overall Project Purpose: The overall project purpose serves as the basis for the Section 404(b)(1) alternatives analysis, and is determined by further defining the basic project purpose in a manner that more specifically describes the applicant's goals for the project, while allowing a reasonable range of alternatives to be analyzed. The overall project purpose is to restore winter storm flow capacity in the vicinity of the Upper Bear River Road bridges.

Project Impacts: The total direct estimated impacts from the proposed project as described above to other waters of the United States (Johnson Gulch and Bonanza Gulch) below the Ordinary High Water of the respective drainages would be approximately 0.28-0.30 acres of stream bed and bank for each episode of stream excavation. This impact would be short-term, with work lasting a few days in dry stream channels. No water diversion would be necessary.

Proposed Mitigation: No riparian or wetland impacts would occur from this project, therefore no vegetation mitigation is currently proposed. DPW does propose measures to avoid or minimize impacts to stream and upland habitat environment. These measures would include performing all in stream work only when the stream bed is completely dry. All excavated material would be removed to locations away from the stream banks or to upland stockpiles located further away from the project area. Stockpiles would be bermed to prevent release of suspended sediment back into the drainages. All heavy construction equipment would be cleaned and inspected offsite prior to use reducing the potential for hydrocarbon contamination to surface water, groundwater and fish. Construction equipment would be inspected for fluid or oil leaks prior to each shift, during and after each shift. Equipment parking, maintenance and fueling would occur only at designated upland staging areas. Incidental holes, depressions, or any irregular features created during excavation activities would be graded smooth to facilitate free drainage and prevent fish stranding. Any disturbances outside the channel such as the equipment staging area or channel access route would be straw mulched to reduce offsite sediment transport of fines associated with the project.

Project Alternatives: The Corps will complete an independent, formal analysis of alternatives to satisfy Section 404 (b)(1) guidelines. The applicant has stated that the entire area along Upper Bear River Road and

adjacent to the Bear River drainage and tributaries is highly unstable geologically and is underlain by highly erodible soils. The No Project Alternative could result in excessive accumulation of fine and coarse sediment, gravel and large cobble or boulders to raise the elevation of the stream beds to the point where the drainages would overflow and flood area roads and pastures. The bridges over the drainages could potentially be damaged or destroyed by the accumulation of debris underneath and against the abutments of the bridges, requiring expensive replacement of each bridge.

The applicant states relocation of roads and bridges is not a practical alternative because the existing county road is located along the narrow Bear River floodplain terrace. This road was originally constructed as near to the toe of the mountain as possible to maintain sufficient vertical relief from the river during high flow events. There are no alternative locations for bridge/road placement that would not increase the threat of flooding to the roadway and/or damage or destroy the bridge structures. As mentioned above, the geology of the area results in unstable hillsides prone to movement during wet winter season. Furthermore, these same slopes are highly susceptible to movement during seismic events that occur frequently in the area. Elevating the bridges to increase flow capacity is a temporary solution but would inevitably result in flooding and erosion of the roadway as channel bed elevations increased to a point where channel confinement no longer existed. Elevating bridges or moving bridges and roads is also cost prohibitive as the county/s financial situation is in distress, much like all areas of the state. In conclusion, the county states there are no viable alternatives to the proposed action that would reduce effects to the environment.

3. **STATE AND LOCAL APPROVALS**:

Water Quality Certification: State water quality certification or a 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 of 1972, as amended (33 U.S.C. § 1341 et seq.). The applicant has recently submitted an *application* to the California Regional Water Quality Control Board (RWQCB), North Coast Region to obtain water quality certification for the project. No Department of the Army Permit will be issued until the applicant obtains the required certification or a waiver of certification. A waiver can be explicit, or it may be presumed, if the RWQCB fails or refuses to act on a complete application for water quality certification within 60 days of 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, 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.

Coastal Zone Management: Section 307(c) of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1456(c) *et seq*.), requires a non-Federal applicant seeking a federal license or permit to conduct any activity occurring in or affecting the coastal zone to obtain a Consistency Certification that indicates the activity conforms with the State's coastal zone management program. Generally, no federal license or permit will be granted until the appropriate State agency has issued a Consistency Certification or has waived its right to do so. The project does not occur in the coastal zone, and a *preliminary* review by USACE indicates the project would not likely affect coastal zone resources. This presumption of effect, however, remains subject to a final determination by the California Coastal Commission.

Coastal zone management issues should be directed to the District Manager, California Coastal Commission, North Coast District Office, 710 E Street, Suite 200, Eureka, California 95501, by the close of the comment period.

Other Local Approvals: The applicant will be applying for the following additional governmental authorizations for the project: California Department of Fish and Game 1601/1603 Streambed Alteration Agreement.

4. **COMPLIANCE WITH VARIOUS FEDERAL LAWS**:

National Environmental Policy Act (NEPA): Upon review of the Department of the Army permit application and other supporting documentation, USACE has made a *preliminary* determination that the project neither qualifies for a Categorical Exclusion nor requires the preparation of an Environmental Impact Statement for the purposes of 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 USACE and other non-regulated activities 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 (ESA): Section 7(a)(2) of the ESA or 1973, as amended (16 U.S.C. § 1531 *et seq*.), requires Federal agencies to consult with either the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS) to insure actions authorized, funded, or undertaken by the agency are not likely to jeopardize the continued existence of any Federally-listed species or result in the adverse modification of designated critical habitat. As the Federal lead agency for this project, USACE has conducted a review of the California Natural Diversity Data Base, digital maps prepared by USFWS and NMFS depicting critical habitat, and other information provided by the applicant, to determine the presence or absence of such species and critical habitat in the project area. Based on this review, USACE has made a preliminary determination that the following Federally-listed species and designated critical habitat are present at the project location or in its vicinity, and may be affected by project implementation: The Bear River and its tributaries (including Johnson Gulch and Bonanza Gulch) are critical habitat for the Southern Oregon/Northern California Coastal (SONCC) Evolutionarily Significant Unit (ESU) coho salmon (*Oncorhynchus kisutch*), the California Coastal (CC) ESU Chinook salmon (*O. tshawytscha*), and the Northern California (NC) Distinct Population Segment (DPS) steelhead (*O. mykiss*). All three of these salmon species are listed as threatened by the NMFS. The mouth of the Bear River and nearby coastal marine waters are also critical habitat for the Southern DPS green sturgeon (*Acipenser medirostris*). The green sturgeon is also listed as threatened by the NMFS. USACE initiated informal Section 7 ESA consultation with NMFS regarding potential project impacts to the above species and critical habitat on February 7, 2011. After discussions between NMFS Arcata Office and USACE by electronic mail dated March 9, 2011, USACE and NMFS concluded that the above proposed project is in a category of actions (Category No. 4, Culverts Replace/Upgrade) that may affect but is Not Likely to Adversely Affect (NLAA) listed species and would not adversely affect their critical habitat pursuant to the ESA (NMFS, Southwest Region, Letter to John R. McMahon, Brigadier General, USACE, South Pacific Division, ESA Programmatic Concurrence NLAA, February 14, 2007). Critical habitat for the green sturgeon was designated by NMFS since the Programmatic NLAA Concurrence was published, but USACE has determined that the proposed project as described above would not adversely affect critical habitat for the green sturgeon.

Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA): Section 305(b)(2) of the MSFCMA of 1966, as amended (16 U.S.C. § 1801 *et seq*.), requires Federal agencies to consult with the National Marine Fisheries Service (NMFS) on all proposed actions authorized, funded, or undertaken by the agency that may adversely affect essential fish habitat (EFH). EFH is defined as those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity. EFH is designated only for those species managed under a Federal Fisheries Management Plan (FMP), such as the *Pacific Groundfish FMP*, the *Coastal Pelagics FMP, and* the *Pacific Coast Salmon FMP*. As the Federal lead agency for this project, USACE has conducted a review of digital maps prepared by NMFS depicting EFH to determine the presence or absence of EFH in the project area. Based on this review, USACE has made a *preliminary* determination that EFH is present at the project location or in its vicinity for SONCC ESU coho salmon and CC ESU Chinook salmon as managed under the Pacific Coast Salmon Fishery Management Plan. To address project related impacts to EFH, USACE initiated EFH consultation with NMFS concurrently with ESA consultation dated February 7, 2011, pursuant to Section 305(5(b)(2) of the Act. In an electronic mail dated March 9, 2011, USACE and NMFS concluded that above project as proposed is in a category of actions (No.4, Culverts Replace/Upgrade) that would not adversely affect EFH for coho salmon and Chinook salmon (NMFS, Southwest Region, Letter to John R. McMahon, Brigadier General, USACE, South Pacific Division, EFH Programmatic Concurrence, December 21, 2007).

Marine Protection, Research, and Sanctuaries Act (MPRSA): Section 302 of the MPRS of 1972, as amended (16 U.S.C. § 1432 *et seq*.), authorizes the Secretary of Commerce, in part, to designate areas of

ocean waters, such as the Cordell Bank, Gulf of the Farallones, and Monterey Bay, as National Marine Sanctuaries for the purpose of preserving or restoring such areas for their conservation, recreational, ecological, or aesthetic values. After such designation, activities in sanctuary waters authorized under other authorities are valid only if the Secretary of Commerce certifies that the activities are consistent with Title III of the Act. No Department of the Army Permit will be issued until the applicant obtains the required certification or permit. The project does not occur in sanctuary waters, and a *preliminary* review by USACE indicates the project would not likely affect sanctuary resources. This presumption of effect, however, remains subject to a final determination by the Secretary of Commerce, or his designee.

National Historic Preservation Act (NHPA): Section 106 of the NHPA of 1966, as amended (16 U.S.C. § 470 *et seq*.), requires Federal agencies to consult with the appropriate State Historic Preservation Officer to take into account the effects of their undertakings on historic properties listed in or eligible for listing in the *National Register of Historic Places.* Section 106 of the Act further requires Federal agencies to consult with the appropriate Tribal Historic Preservation Officer or any Indian tribe to take into account the effects of their undertakings on historic properties, including traditional cultural properties, trust resources, and sacred sites, to which Indian tribes attach historic, religious, and cultural significance. USACE has made a *preliminary* determination that historic or archaeological resources are not likely to be present in the permit area, and that the project either has no potential to cause effects to these resources or has no effect to these resources. USACE will render a final determination on the need for consultation at the close of the comment period, taking into account any comments provided by the State Historic Preservation Officer, the Tribal Historic Preservation Officer, the Advisory Council on Historic Preservation, and Native American Nations or other tribal governments. If unrecorded archaeological resources are discovered during project implementation, those operations affecting such resources will be temporarily suspended until USACE concludes Section 106 consultation with the State Historic Preservation Officer or the Tribal Historic Preservation Officer to take into account any project related impacts to those resources.

5. **COMPLIANCE WITH THE SECTION 404(b)(1) GUIDELINES**: Projects resulting in discharges of dredged or fill material 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 dependent on location in or proximity to waters of the United States to achieve the basic project purpose.

6. **PUBLIC INTEREST EVALUTION**: 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.

7. **CONSIDERATION OF COMMENTS**: USACE is soliciting comments from the public; Federal, State and local agencies and officials; Native American Nations or other tribal governments; 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 or public interest 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.

8. **SUBMITTING COMMENTS**: During the specified comment period, interested parties may submit written comments to David Ammerman, San Francisco District, Regulatory Division, Eureka Field Office, 601 Startare Drive, Box 14, Eureka, California 95501; comment letters should cite the project name, applicant name, and public notice number to facilitate review by the Regulatory

Permit Manager. Comments may include a request for a public hearing on the project prior to a determination on the Department of the Army permit application; such requests shall state, with particularity, the reasons for holding a public hearing. All substantive comments will be forwarded to the applicant for resolution or rebuttal. Additional project information or details on any subsequent project modifications of a minor nature may be obtained from the applicant and/or agent, or by contacting the Regulatory Permit Manager by telephone or e-mail cited in the public notice letterhead. An electronic version of this public notice may be viewed under the *Current Public Notices* tab on the USACE website: http://www.spn.usace.army.mil/regulatory/.