



US Army Corps  
of Engineers®

SAN FRANCISCO DISTRICT

# PUBLIC NOTICE

NUMBER 27248N & 27249N DATE: March 14, 2003  
RESPONSE REQUIRED BY: APRIL 13, 2003

Regulatory Branch  
333 Market Street  
San Francisco, CA 94105-2197

PERMIT MANAGER: David A. Ammerman

PHONE: 707-443-0855 David.A.Ammerman@spd02.usace.army.mil

1. **INTRODUCTION:** Granite Construction Company, 1324 South State Street, Ukiah, California 95482 (Contact: Mr. Douglas McLelland, Material Resource Manager at 707-485-0362), has applied for a Department of the Army permit to extract gravel from two gravel bars (Sultan Bar and Huffman Bar) in the Smith River. Both gravel bars are located upstream of the Highway 101 (also known locally as the Dr. Fine Bridge), in Del Norte County, California. This application is being processed as an individual or standard U.S. Army Corps of Engineers (Corps) permit pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344).

2. **PROJECT DESCRIPTION:** The applicant has requested that the Corps process an individual or standard Section 404 permit with a five year duration for authorization to extract river-run aggregate from the Sultan and Huffman Bars in the Smith River. Gravel extraction on both of these bars has been ongoing and has been subject to active review, monitoring and management over the last 10 or more years. The gravel bars were previously extracted by North Coast Paving and Rock (then a subsidiary of Redwood Empire Aggregates). Granite Construction Company (Granite) took over management of the gravel operations in 2001. The gravel and other aggregate would be processed and sold for commercial sale and distribution. Since 1996, the Sultan Bar and Huffman Bar gravel extraction operations have been subject to Corps authorization pursuant to the Del Norte County *Letter of Permission Procedure* (LOP 96-2) for Gravel Mining

*and Other Extraction Activities in Del Norte County* (Corps, 1997). However, for the 2003 season and beyond, Granite Construction has requested that instead of processing their permit application under the new Del Norte LOP Procedures for 2003, that both the Upper Sultan Bar and Huffman Bar operations be processed under a Corps individual permit.

Upper Sultan Bar – The Upper Sultan Bar is the most upstream of the ten gravel bars on the Smith River that are currently used or have been used in the past for in stream gravel mining for commercial or private purposes. 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 CY. The Lower Sultan Bar, located immediately downstream from Granite Construction's bar, 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 the 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. Granite Construction obtained a Letter of Permission from the Corps (under LOP 96-2) on September 23, 2002, (File No. 27249N) to extract up to 25,000 CY of gravel from the Sultan Bar. The method of extraction was by the bar skimming method with a paddle wheel scraper. The length of the extraction was to be 1,200 feet long and between 200 and 400 feet wide between extraction cross section stations 18+50 and 6+50 (see attached aerial, Sheet 2 of 3). Actual extraction volumes for the 2002 extraction are not available at this time. Granite states that post extraction field surveys were completed, but pre-extraction and monitoring cross sections and volume calculations have not yet been prepared on paper for submittal to the Corps as of the date of this Public Notice. Therefore, actual extraction volumes for the 2002 season are not known at this time. The Corps received an individual permit application from Granite Construction for gravel extraction on both Upper Sultan and Huffman gravel bars on January 24, 2003.

Gravel extractions methods on the Upper Sultan Bar have generally been the skimming method. The skimming method involves employment of wheeled scraper or front end loader equipment, which would remove shallow, thin layers of gravel at each pass on the surface of the gravel bar down to a shallow depth. Deeper skimming is being considered by Granite Construction for this bar near the secondary channel along the right bank portion of the extraction area, focusing on the downstream end of the gravel bar and secondary channel. The deeper skimming would result in the creation of an alcove at the lower end of the bar. The applicant states that, in the past,

trenching has also been conducted on the downstream end of Sultan Bar within the location of the current low flow channel. The applicant would consider using the trenching method as an alternative design that could be used in times of low replenishment or for fisheries enhancement, bank and channel stabilization, and erosion control applications.

The total volume of gravel extracted from the Sultan Bar (Upper Sultan Bar) between 1999 and 2001 is as follows (for years 1996 through 1998, either no permits were issued for gravel extraction and/or no extraction occurred on the Sultan Bar):

<u>Year</u>	<u>Permitted</u>	<u>Actual (in CY)</u>
1999	N/A *	36,000
2000	No	0
2001	No	0

\* No record of Corps permit issued.

Huffman Bar - The Huffman Bar is located downstream of the Sultan Bar and approximately 1,000 feet upstream from the Highway 101/Dr. Fine Bridge over the Smith River. Access to the Huffman Bar is reached from South Bank Road. Gravel extracted for the Huffman Bar would be transported to Granite’s aggregate processing plant also located on South Bank Road. Conditional Use Permits (CUP) from the Del Norte County Planning Department list a maximum allowable extraction volume for the Huffman Bar at 50,000 CY annually. The total length of the Huffman Bar is approximately 4,000 feet end to end. A relatively mature (30 + years) area of well established riparian vegetation of willows, alders and associated herbaceous vegetation is growing in a band approximately 100 to 400 feet wide along the entire length of the bar between South Bank Road and the less vegetated portion of the Huffman Bar. Scattered riparian vegetation, mostly willows, is growing in patches in the interior of the gravel bar and near its edge with the low flow

channel of the river, towards the right bank, concentrated on the lower 1/3 of the bar. The bar is generally devoid of vegetation for most of the upper 2/3 of the gravel bar.

The Corps granted a Letter of Permission under the LOP 96-2 to Granite on September 23, 2002, (File No. 27248N) to remove up to 18,335 CY of gravel from the downstream end of the Huffman Bar by a shallow alcove trenching method. The length of the extraction authorized was 1,100 feet long and 200 feet wide. The actual volume extracted is not available at this time pending receipt by the Corps of post-extraction cross sections and data from Granite. However, the permit was issued unseasonably late, and actual volumes extracted by Granite are expected to be much lower than 18,000 CY.

Granite states they may not be able to extract any gravel (or a very low amount of gravel, unspecified amount) from the Huffman Bar in 2003. Their proposal for 2003 includes reworking the mid to lower portion of Huffman Bar by removing young riparian vegetation and transplanting that vegetation to the upper bar area to prepare the mid to lower bar for future extraction beyond 2003 (See Sheet 3 of 3). Granite intends that the mid to lower area of the Huffman Bar be their primary gravel extraction site in future years (Berg, 2003).

The following are volumes of gravel extracted between 1998 and 2001 at the Huffman Bar:

<u>Year</u>	<u>Permitted</u>	<u>Actual in CY</u>
1998	37,400	37,400 *
1999	No **	53,000
2000	64,000	39,000
2001	24,000	26,480

\* Volume calculations were not submitted in fall 1998, due to late permit, possibly half of that amount was actually extracted.

\*\* No record of permit issued by Corps.

**3. STATE APPROVALS: California Regional Water Quality Control Board (RWQCB), North Coast Region** - Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), an applicant for a Corps permit must obtain a State water quality certification before a Corps permit may be issued. The applicant is notified by this Public Notice that, unless he provides the Corps with evidence of a valid request for state water quality certification to the RWQCB within 30 days of the date of this public notice, the Corps may consider this application withdrawn. No Corps permit will be granted until the applicant obtains the required certification. A water quality certification will be presumed to have been issued 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 issues that may be associated with this project should write to the Executive Officer, California Regional Water Quality Control Board (RWQCB), North Coast Region, 5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403, by the close of the comment period of this public notice.

**California Coastal Commission (Federal coastal Zone Act of 1972)** - The California Coastal Commission regulates gravel extraction activity on the Smith River from the river mouth upstream to the Highway 101/Dr. Fine Bridge, as stated in its staff reports for individual gravel operations and as shown on California Coastal Commission jurisdictional maps overlain on U.S. Geological Survey quadrangles. The Sultan and Huffman Bars are both located upstream of the Highway 101/Dr. Fine Bridge, and are, therefore, not subject to the

permitting authority of the California Coastal Commission.

**4. ON-SITE MITIGATION: Avoidance** - Prior to the start of gravel extraction each season, gravel operators are required, as in past authorizations whether under the LOP 96-2 or under an individual permit, to provide the Corps with pre-extraction planning documents. These documents include a minimum number of extraction and monitoring cross sections, spring aerial color photographs and proposed volume calculations taken at each cross section. As stated in the biological assessment for Granite (Berg, 2003): “Annual aerial photographs are evaluated and compared and this information is used along with annual physical survey information and comparisons of recent and historic monumented full-channel cross sections. Prior to extraction, a series of planimetric photographs are taken of the river channel and adjacent riparian areas.” The aerial photographs are used to depict natural morphologic alterations caused by winter river flows and identify vegetative succession or loss, pool/riffle sequences, potential extraction areas and sensitive habitats (wetlands, riparian corridors or communities, and locations of threatened, endangered or sensitive plant or animal species). When skimming methods are designed near the active river channel, a vertical offset from the surveyed low flow channel water surface (main or secondary channels) or a minimum horizontal offset would be established depending on site-specific conditions. The offsets are required to maintain the integrity of the low flow channel and prevent equipment and extraction materials from entering the main or secondary channels, which potentially cause effects to water quality, reduction of channel area, disruption of fisheries habitat or otherwise affect fish and aquatic populations. Extraction equipment is not allowed to enter the low flow channel or wetted channel area unless permitted by the Corps and other regulatory agencies for emergency fisheries habitat enhancement, rescue operations of fish, or road crossing installation and

removal activities (Berg, 2003).

Upon receipt of pre-extraction planning information from Granite, the Corps arranges for an interagency field review (including representatives of the gravel operator and their consultants) of the Sultan and Huffman Bars prior to the extraction season. The agencies participating in the field review and review of pre-extraction information include but are not limited to: NOAA Fisheries, the California Department of Fish and Game, and the Del Norte County Planning Department. After the field review, the agencies make recommendations to the gravel operators regarding extraction of a gravel bar on a site specific basis. Changes to the planned extraction may be recommended by the agencies in order to avoid or minimize riparian vegetation or fisheries habitat impacts, to maintain stable river channel and gravel bar morphology, and other recommendations specific to the site. This may result in recommendations for different types of extraction methods (trenching, skimming or other methods), larger or smaller areas and depths of extraction or no extraction at all.

**Minimization** - Granite states that their primary goal is to operate using a sustainable strategy that includes extracting aggregate from areas that have the highest potential for replenishment (i.e. areas near the low flow channel). Minimizing impacts at the site and river reach scale requires a level of flexibility in locating and designing gravel extraction activity since the extraction areas may change physically. Among the minimization methods in gravel extraction are:

1. Skim boundaries are typically laid out as curvilinear benches along the outside of point bars. This usually provides an adequate replenishment configuration without preventing riparian colonization or encouraging braiding.
2. Skim floors are sloped to provide for

drainage following inundation (either directly toward the low flow channel, in a downstream direction, or somewhere in between) to reduce salmonid stranding potential. After river fluctuations, there is the potential for salmonids to be stranded in pockets or depressions within the gravel bar.

3. A vertical offset of the skim floor above the low water surface is provided to retain sufficient low flow channel confinement. There have been recent recommendations by NOAA Fisheries to use a flow-based skim floor elevation such as a “35% flow exceedence level” as a means of retaining river channel integrity and protecting fish habitat. NOAA Fisheries will address these recommendations in their response to the Corps’ Section 7 consultation under the Endangered Species Act specific to Granite Construction’s Sultan Bar and Huffman Bar gravel operations.
4. The upper 1/3 of a gravel point bar is usually left undisturbed to preserve sufficient high flow confinement of river flows entering the bend and to discourage river braiding (a condition where the river has a very wide bank to bank channel with intervening main and secondary river channels, shallow water levels in the channels, and lack of fish habitat diversity).
5. In low recruitment years (during years of low winter rainfall and lack of gravel and winter sediment accumulation on the bars), alternative gravel extraction designs such as an alcove creation or trenching would be proposed to augment extraction volumes (Berg, 2003 and Granite, 2003).

**Mitigation** - While gravel extraction does not usually result in the permanent loss of waters of the United States, including river channels or wetlands, gravel extraction does involve repeated disturbance of the river channel and gravel bar features. These impacts are recurring and vary in impact from minor to major depending on the degree of channel and gravel bar surface area impacted by extraction, vertical depth of extraction, and the volume of gravel to be extracted. In addition, the level of impact on river channel morphology, riparian habitat and fish habitat depends on the number of associated features related to gravel extraction activity including but not limited to: haul roads, temporary bridge crossings, the extraction method, and whether river channel diversion is necessary during extraction. Removal of riparian vegetation in order to obtain aggregate requires a minimum of 1: 1 ratio of mitigation, meaning that a like areal extent and type of vegetation must be replanted at a 1:1 ratio to that lost to gravel extraction impacts. Resource agencies may recommend mitigation for riparian or fish habitat loss at higher ratios (e.g., 3:1) if temporal losses have caused sustained environmental impacts.

## **5. COMPLIANCE WITH VARIOUS FEDERAL LAWS:**

**National Environmental Policy Act of 1969 (NEPA):** At the conclusion of the public comment period, the Corps will assess the environmental impacts of the project proposed in accordance with the requirements of the National Environmental Policy Act of 1969 (Public Law 91-190), the Council on Environmental Quality's Regulations, 40 CFR 1500-1508, and Corps’ Regulations at 33 CFR 230 and 325. The final NEPA analysis will normally address the direct, indirect, and cumulative impacts that result from regulated activities within the jurisdiction of the Corps and other non-regulated activities the

Corps 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

**Endangered Species Act of 1973 (ESA):** The Smith River and its tributaries, including the project sites at the Huffman Bar and Sultan Bar, is a migratory corridor and spawning habitat for coho salmon (*Oncorhynchus kisutch*), chinook salmon (*O. tshawytscha*), and steelhead (*O. mykiss*). Of these three salmonids, the NOAA Fisheries has listed the coho salmon as threatened in all North Coast streams draining into the Pacific Ocean. Chinook salmon and steelhead are not listed as threatened or endangered in Del Norte County streams. The Smith River and its tributaries are also designated by NOAA Fisheries as critical habitat for the coho salmon.

The Corps will be initiating Section 7 consultation pursuant to the ESA, as amended (16 U.S.C. 1531 et seq.) with NOAA Fisheries regarding the potential impacts of the Sultan Bar and Huffman Bar gravel extraction activity on coho salmon and its critical habitat.

**Magnuson-Stevens Fishery Conservation and Management Act of 1996 (MSFCMA):** The Smith River and its tributaries, including the Huffman Bar and Sultan Bar gravel extraction sites, occur within Essential Fish Habitat (EFH) designated by NOAA Fisheries for the Pacific Salmon Fishery. The project sites are EFH for coho salmon and chinook salmon. The Corps is also initiating consultation with NOAA Fisheries under the MSFCMA for potential gravel extraction project impacts to EFH.

## 6. EVALUATION OF ALTERNATIVES:

Evaluation of this activity's impacts 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. 1344(b)). The applicant has evaluated alternative methods of gravel extraction for in stream mining, alternative locations to extract gravel in stream, and alternate sources other than in stream mining for aggregate or gravel. Alternative methods of extraction are actively being considered by the applicant, depending on site characteristics, gravel replenishment, and economic considerations. However, alternate sources of gravel (terrace mining, upland quarry mining, purchase of out of area gravel) have been rejected as not practicable by the applicant due to gravel transport costs, unsuitable materials extracted, the costs of processing unsuitable materials, and the risk of greater environmental impacts than the preferred in stream mining activity. In stream gravel sites, other than the Sultan and Huffman Bars managed by Granite, are not available in the Smith River basin due to the use of several other gravel bars, located downstream of Granite's sites, by other companies or landowners. In addition, gravel bars elsewhere on the Smith River both upstream and downstream of Sultan and Huffman Bars do not have sufficient volumes of gravel or the other bars contain unsuitable material to extract for commercial use. Abandoned gravel extraction sites may be considered if they become available.

7. **PUBLIC INTEREST EVALUATION:** The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts that the proposed activity may have on the public interest requires a careful weighing of all those factors which become relevant in each particular case. The benefits that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so the conditions under which it will

be allowed to occur, are therefore determined by the outcome of the general balancing process. That decision will reflect the national concern for both protection and utilization of important resources. All factors that may be relevant to the proposal must be considered including the cumulative effects thereof. Among those are 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.

**8. 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 of Engineers to determine whether to issue, modify, 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 of the proposed activity.

**9. SUBMISSION OF COMMENTS:** Interested parties may submit in writing any comments concerning this activity. Comments should include the applicant's name, the number, and the date of this notice and should be forwarded so as to reach this office within the comment period specified on page one of this notice. Comments should be sent to the

Regulatory Branch. It is 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 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 address is indicated in the first paragraph of this notice, or by contacting David Ammerman of our Eureka Office at telephone 707-443-0855 or by electronic mail: David.A.Ammerman@spd02.usace.army.mil. Details on any changes of a minor nature which are made in the final permit action will be provided on request.

**CITATIONS:**

1. Letter of Permission Procedures for Gravel Mining and Other Extraction Activities in Del Norte County, U.S. Army Corps of Engineers, San Francisco District, adopted March 1997.
2. Biological assessment for Southern Oregon/Northern California Coasts Coho Salmon That May Be Affected By Granite Construction Company's Smith River Gravel Extraction Operations, prepared by Alice Berg and Associates, dated February 2003.
3. U.S. Army Corps of Engineers' Permit application, ENG Form 4345 Online, completed by Granite Construction Company, dated January 24, 2003.