US Army Corps of Engineers

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

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

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1. **INTRODUCTION**: The Granite Construction Company (GCC), 1324 South State Street, Ukiah, California 95482 (POC: Doug McLelland; 707-485-0362), has applied to the U.S. Army Corps of Engineers (USACE) for a five-year Department of the Army permit to continue the annual excavation and removal of up to 50,000 cubic yards (cys) of sand and gavel from the Rowland Bar (APNs 035-040-36, 035-040-45), located at river mile 119.3 of the Eel River and the Middle Fork Eel River, near the Town of Dos Rios, in Mendocino County, California. This Department of the Army permit application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344).

2. **SITE DESCRIPTION**: The project reach occurs at the confluence of the Middle Fork and the Eel River. The confluence presumably causes an eddying effect on water flow and recurring deposition of bedload material at this location. In general, the Middle Fork is in an aggraded condition as a result of poor land use practices, flood events in the 1950s and 1960s that caused massive landslides into the river, and other natural erosional processes. At the project reach, the thalweg elevation of the low-flow channel varies from 855 to 864.5 feet NGVD over a distance of 1,300 feet and is largely constrained by exposed bedrock. Water temperatures average 73°F on a yearly basis and may reach 87°F during the summer months. The active river channel varies from 180 to 375 feet in width, and the riffle-dominated low-flow channel varies from 20 to 75 feet in width. The Rowland Bar consists of a large primary bar on the Middle Fork and a small secondary bar on the Eel River that are approximately seven to nine acres in size during the summer low-flow period; of this area, sand and gravel extraction work would typically disturb three to four acres of exposed bar.

The exposed bars contain less than a 1% cover of forbs, including bird's-foot trefoil (*Lotus corniculatus*), sweet clover (*Melilotus sp.*), vetch (*Vicia sp.*), and lupine (*Lupinus sp.*). Along the toe-of-slope and in seeps on portions of the lower outer bank, the vegetation is characterized by saplings of red alder (*Alnus rubra*), Fremont cottonwood (*Populus fremontii*), sandbar willow (*Salix exigua*), Oregon ash (*Fraxinus latifolia*), and big-leaf maple (*Acer macrophyllum*), as well as Douglas' wormwood (*Artemesia douglasiana*), five-fingered fern (*Adiantum pedatum*), dock (*Rumex sp.*), and rose (*Rosa sp.*). The upper outer bank and vicinity upland areas are comprised of a 30% to 50% cover of trees and shrubs, including interior live oak (*Quercus wislizenii*), Oregon white oak (*Quercus garryana*), tan oak (*Lithocarpus densiflora*), big-leaf maple, Pacific madrone (*Arbutus menziesii*), coyote brush (*Baccharis pilularis*), western redbud (*Cercis occidentalis*), and poison oak (*Toxicodendron diversilobum*), and a 50% to 70% cover of grasses and forbs.

3. **PROJECT DESCRIPTION**: As shown in the attached drawings, the proposed extraction work would be limited to the aggraded portions of the bars, beginning at a horizontal distance not less than 10 feet from the water's edge and that results in a two-foot elevational change above the water level. Within the extraction area, the disturbed surface substrate would be graded to establish a 2% transverse slope measured from the water's edge towards the outer bank. Extraction work would neither occur in the upstream 25% to 30% area of the bars to promote channel stability nor within a setback area not less than 10 feet from the toe-of-slope of the outer bank to protect existing riparian vegetation on the slope. Utilizing rubber-tired front-end loaders and dump trucks, sand and gravel would be skimmed from the bars, placed in temporary stockpiles, and hauled off-site on a daily basis to a processing facility in Longvale. At the conclusion of the annual extraction episode, the bars would be fine-graded to remove any pits and depressions that could otherwise entrap salmonids or impede surface drainage. All excavation, stockpiling, and reclamation grading activities would be confined to the low-flow period of July 15 to October 15 to minimize impacts on water quality and salmonid fishery resources. Annual post-extraction and pre-extraction cross-sectional surveys of the bars would be performed in the fall and spring to ensure the extraction volume did not exceed the bedload transport rate and resulting aggregate recruitment volume.

An existing haul road on the outer bank to Highway 162 would provide vehicular access to the primary bar. To gain access to the secondary bar, a seasonal road crossing would be constructed in the Middle Fork, approximately 75 feet from its confluence with the Eel River, utilizing three to five 24-inch diameter by 20-foot long corrugated metal pipe culverts and gravel approach ramps. The seasonal road crossing would be 30 to 40 feet in length, 20 feet in width, and could displace up to 20 lineal feet of low-flow channel, requiring the discharge of up to 50 cys of sand and gravel skimmed from the adjacent bars. At the conclusion of the annual extraction episode, the culverts would be removed and the remaining sand and gravel allowed to be dispersed by subsequent high flow events. All activities

associated with the installation and removal of the seasonal road crossing would be confined to the low-flow period of July 15 to October 15.

The project could *theoretically* induce changes in channel morphology, including the loss or degradation of riffle and pool habitat; promote stranding of salmonids on the affected bars; preclude the reestablishment of riparian vegetation; cause the loss of large woody debris; result in direct mortality of salmonids during installation of the seasonal road crossing in the Middle Fork; and generate turbidity and downstream sedimentation, the deposition of which could degrade the quality of spawning gravels and the survivability of incubating salmonid embryos. Based on a review of previous pre- and post-extraction cross-sectional survey data, major changes in channel morphology have not occurred to date due to the presence of exposed bedrock in the project reach.

4. **PURPOSE AND NEED:** The GCC indicates the purpose and need for the project are to provide a local source of construction grade aggregate for the repair, maintenance, and construction of State highways and County roads in the area. The Rowland Bar is located in a relatively remote area of Mendocino County. Importing similar grade aggregate into this area from outside sources would be comparatively expensive due to high freight costs. The Mendocino County Use Permit allows the removal of up to 50,000 cys of sand and gravel per year from the Rowland Bar; extraction volumes have averaged approximately 21,000 cys per year since 1996. Sand and gravel have been excavated from the Rowland Bar on an annual basis for over twenty years.

5. **STATE AND COUNTY APPROVALS**: 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 (33 U.S.C. 1341). The GCC is hereby notified that, unless the USACE is provided documentation indicating a complete application for water quality certification has been submitted to the Regional Water Quality Control Board (RWQCB) within 30 days of the public notice date, the District Engineer may consider the Department of the Army permit application to be withdrawn. No Department of the Army permit will be issued until the GCC obtains the required certification or waiver. A waiver will 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, Regional Water Quality Control Board, North Coast Region, 5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403, by the close of the public notice comment period.

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

The project is also subject to the provisions of a Use Permit issued by the County of Mendocino and a 1603 Streambed Alteration Agreement issued by the California Department of Fish and Game.

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

National Environmental Policy Act of 1969 (NEPA): At the conclusion of the public comment period, the 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 CFR 1500-1508, and USACE Regulations at 33 CFR 325. The final NEPA analysis will normally address the direct, indirect, and cumulative impacts that result from regulated activities within the jurisdiction of the USACE and other non-regulated activities the 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.

Endangered Species Act of 1973: Naturally spawned populations of Southern Oregon/Northern California Coasts coho salmon (*Oncorhynchus kisutch*), Northern California Coast steelhead (*Oncorhynchus mykiss*), and California Coastal chinook salmon (*Oncorhynchus tshawytscha*) inhabiting the Eel River Basin, including the project reach, have been federally listed as threatened under the Endangered Species Act. Critical habitat has been also designated for coho salmon to include all estuarine and river reaches accessible to salmonids below longstanding, naturally impassable barriers. Designated critical habitat consists of the water, riverbed, and adjacent riparian zone. The project reach is presumed to principally serve as a migratory corridor for adult and juvenile salmonids. Adult coho salmon generally enter the Eel River Basin and migrate upstream to spawn from late October to mid-February and die within two weeks after spawning. Yearling juvenile coho salmon tend to migrate downstream to the ocean from March to mid-June. Steelhead are capable of repeat spawning episodes. Adult

steelhead enter the Eel River Basin from late fall through April and begin spawning in December. Juvenile steelhead can remain in fresh water from one to three years and tend to migrate downstream to the ocean during the spring and early summer months. Chinook salmon begin their upstream migration in the late fall, with the advent of heavy rains, and spawn shortly after returning to their natal streams; this migratory period may continue into March or early April and generally peaks in December and January. Juvenile chinook salmon begin their downstream migration in late March or early April, with out migration peaking in Mid-May.

The USACE has made a preliminary determination that the project may affect threatened salmonids and critical habitat. To address project related impacts to salmonids and critical habitat, the USACE will initiate either informal or formal consultation with the National Marine Fisheries Service, pursuant to Section 7(a) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq*.). The consultation process must be concluded prior the issuance of any Department of the Army permit for the project.

Other federally listed species could potentially occur in the project vicinity, including threatened northern spotted owl (*Strix occidentalis caurina*), threatened marbled murrelet (*Brachytramphus marmoratus marmoratus*), threatened bald eagle (*Haliaeetus leucocephalus*), and endangered American peregrine falcon (*Falco peregrinus anatum*). These species typically nest or roost in tall canopy trees or on cliffs that do not exist in the immediate project reach.

Magnuson-Stevens Fishery Conservation and Management Act of 1996: The Eel River Basin occurs within designated essential fish habitat for the Pacific Salmon Fishery that includes both coho and chinook salmon. Essential fish habitat for these species essentially corresponds to the constituent habitat elements of designated critical habitat for coho salmon. The USACE has made a preliminary determination that the project may adversely affect designated essential fish habitat. The aforementioned Section 7 consultation process will be used to address project related impacts to essential fish habitat.

National Historic Preservation Act of 1966: Based on a review of survey data on file with various City, State, and Federal agencies, no historic or archaeological resources are known to occur in the project reach or in the project vicinity. Since the exposed bar is principally comprised of sediments recently deposited by high water-flow events, the proposed extraction project would not likely encounter intact archaeological resources. If unrecorded historic or archaeological resources were discovered during the course of work, such operations would be suspended until the USACE concluded Section 106 consultation with the State Historic Preservation Officer to take into account any project related impacts to such resources.

Wild And Scenic Rivers Act of 1968 (WSRA): Portions of the Middle Fork and Eel River, including the project reach, have been designated as *recreational* under the WSRA due to the presence of high quality salmonid fishery habitat, white-water boating, and other recreational resources associated with this river. The recreational designation refers to those river reaches that are readily accessible by road or railroad, that may have some development along their shorelines, and that may have undergone some impoundment or diversion in the past. Pursuant to Section 7(a) of the WSRA, the USACE will consult with the National Park Service to ensure the project does not cause or result in any adverse effects to these recreational resources for which the river was designated.

7. **COMPLIANCE WITH THE 404(b)(1) GUIDELINES**: Project associated 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 not dependent on location in or proximity to waters of the United States to achieve the basic project purpose to excavate and remove sand and gravel for commercial use. This conclusion raises the (rebuttable) presumption of the availability of a practicable alternative to the project that would result in less adverse impact to the aquatic ecosystem, while not causing other major adverse environmental consequences. The GCC has been informed to submit an analysis of project alternatives to be reviewed for compliance with the Guidelines.

8. **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.

9. **CONSIDERATION OF COMMENTS**: The USACE 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 the project. All

comments received by the 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 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.

10. **SUBMITTING COMMENTS**: During the specified comment period, interested parties may submit written comments to the San Francisco District, Regulatory Branch, North Section, citing the applicant's name and Public Notice Number in the letter. 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 comments will be forwarded to the GCC for resolution or rebuttal. Additional information may be obtained from the GCC or by contacting Mr. Peter Straub of the Regulatory Branch at telephone 415-977-8443.