SAN FRANCISCO DISTRICT

US Army Corps of Engineers®

PUBLIC NOTICE

NUMBER: 27724N DATE: April 30, 2003
RESPONSE REQUIRED BY: May 30, 2003

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

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

1. **INTRODUCTION:** Mr. Victor Guynup, Mad River Sand and Gravel, P.O. Box 3457, Eureka, California 95502, through his agent, Streamline Planning Consultants, (Contact Mr. Robert Brown of Streamline Planning Consultants at 707-822-5785) has applied for an individual Department of the Army permit to extract gravel for commercial sale from the Mad River below the Ordinary High Water mark. The project site is located at the NW 1/4 Sec. 31 T6N-R2E, HBM Korbel USGS Quadrangle, in the vicinity of Blue Lake, in Humboldt County, California (See Sheet 1A of drawings). The extraction site is reached from Hatchery Road, at the intersection of West End Road, between Blue Lake and the Mad River Fish Hatchery. This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344). The applicant has informed the U.S. Army Corps of Engineers (Corps) (via Streamline Planning Consultants), that he is applying for an individual Section 404 permit, and elects not to participate in the Corps' Letter of Permission Procedures for Gravel Mining and Extraction Activities in Humboldt County (LOP 2003 1).

2. **PROJECT DESCRIPTION:** As shown in the attached drawings (See Sheets 1A through 3.), the applicant plans to extract, on an annual basis and for a permit duration of five years, up to 65,000 cubic yards (CY) of sand and gravel from the Guynup Bar on the Mad River. The total project area is approximately 120 acres in size. Of the total project area, ten (10) acres is a gravel and aggregate processing site located outside of Corps jurisdiction (above the Ordinary High Water (OHW) mark of the Mad River). The applicant states that approximately 20 acres below the OHW mark would be disturbed by gravel extraction activities. Victor Guynup has maintained commercial gravel mining operations at this site since 1964. The applicant states this operation has vested rights and is permitted by the County of Humboldt (Permit No.s SP-31-88 and Conditional Use Permit [CUP]-35-91) to extract a maximum of 200,000 CY annually. However, for this Section 404 permit application, the operations would be limited to a maximum of 65,000 CY annually, based on the best available and most current scientific estimate of the average annual recruitment rate for the Mad River (Kondolf, 2001).

The activity related to gravel removal, within the limits defined by the OHW mark of the Mad River, consists of excavation, grading, loading, and transport of sand and gravel materials. In recent history, the Guynup extraction site has had three main extraction areas within the overflow channel. For the 2002 gravel extraction season, Mad River Sand and Gravel was authorized by the Corps' Letter of Modification dated August 20, 2002, to mine 44,640 CY from two of the three extraction areas (labeled as Area 2 and Area 3 on the Plan View dated 3-2003, Sheet 2). Both of these extraction areas are

on the right bank of the gravel bar which is bisected by the overflow channel. The actual 2002 extraction according to the applicant's Post-Extraction report was calculated as follows: Area 2 (labeled as Area 1 in 2002) – 12,931 CY and Area 3 (labeled as Area 2 in 2002) – 8,257 CY, with a total extraction for 2002 of 21,188 CY or less than half that permitted.

For the 2003 season and beyond, the applicant proposes to extract a third area along the left bank of the gravel bar (Area 1 on Sheet 2), with the upstream limit extending to near the apex of the left bank gravel bar. The other two extraction areas on the right bank are proposed to be extended in length. Permitted extraction for 2003 would depend on pre-extraction review and spring site visits by the Federal, State, and local permitting agencies including the National Marine Fisheries Service. It is believed that the County of Humboldt Extraction Review Team (CHERT) would still review the pre-extraction proposals and make recommendations despite the applicant's election not to participate in the Corps' LOP 2003-1 process. The proposed or permitted volume of material to be extracted, the horizontal areal extent of the extraction, and the depth of extraction would be determined after coordinated agency-operator review of pre-extraction data, aerial photos and extraction/monitoring cross sections prior to the start of the gravel extraction season.

Depending on river conditions, extraction may require the installation of a summer bridge crossing (See Sheet 2.) for equipment and gravel truck access, usually around June 1st or later. Bridge crossings require gravel fill and "sill logs" at each end of the bridge. This configuration would provide a clearance of 3 feet between the bottom of the bridge and the water surface of the stream channel. When more clearance is necessary, up to 50-75 CY of gravel would be used as approach ramp fill for a total of less than 200 CY. On the Mad River summer crossings must be removed by September 15th.

The primary method of extraction at the Guynup site is bar skimming. Excavation is done with the use of a front-end loader or scraper and dump trucks are used for removal of material from the extraction area. Gravel is transported from river bar and stockpiled on the 10-acre gravel processing area located just beyond the west or left bank of the river (See Sheet 2 of the project drawings.).

3. **STATE APPROVALS:** 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 obtained a Section 401 Water Quality Certification (dated August 27, 2002) from the California Regional Water Quality Board (RWQCB), North Coast Region for gravel extraction on the Guynup Bar. The 2002 Certification was issued while the Guynup Bar extraction was operating under terms and conditions of the Corps' LOP 96-1 procedures. However, the RWQCB has informed the Corps that even though Mr. Guynup has applied for a five year individual Corps permit instead of processing his activity in accordance with the LOP 2003-1 procedures, the RWQCB states that the Water Quality Certification is still valid for the Guynup gravel extraction project until December 31, 2004. For extraction years beyond the 2004 season, Mr. Guynup and Mad River Sand and Gravel must reapply for a new RWQCB Water Quality Certification.

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, North Coast Region, 5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403, by the close of the comment period of this Public Notice.

4. **PROPOSED MITIGATION:**

Avoidance and Minimization: Mitigation of the

gravel extraction program on the lower Mad River includes: (1) avoiding or reducing cumulative effects at the river reach scale (as opposed to localized and site specific) through long-term and annual gravel recruitment; and (2) minimizing localized site-specific effects through annual monitoring, reviews and extraction methods that are designed to minimize effects at each site. The applicant's agent states that the extraction planning and monitoring process has provided the primary mitigation measure for gravel extraction projects in Humboldt County. Aggregate operators have worked cooperatively with regulatory agencies and CHERT to establish guidelines and best management practices for gravel operations to protect riverine habitat and associated fish and wildlife. Gravel and sand extraction would continue to be implemented based on volumes that can be extracted from a river reach without causing widespread (extraction-induced) lowering of the channel bed elevation (degradation) (Berg, 2002). A primary component of the gravel extraction project's impact minimization measures is the continuation of monitoring programs that assess river resource trends over time. Impact minimization of the gravel extraction activities is accomplished through a combination of river monitoring activities involving annual biological monitoring, evaluation and comparison of bi-annual aerial photographs coupled with the surveying and comparison of recent and historic monumented full-channel cross sections which identify hydrological and morphological alterations of the extraction/monitoring river reach. The monitoring cross sections and aerial photos are utilized to: propose annual extraction volumes; estimate the volume of replenished aggregate; identify changes in river alignment as well as depositional/scouring trends; track successional vegetation growth; locate and design extractions complimentary to the natural features of the river channel and track the conditions of previously extracted surfaces to aid in design of future extractions (Berg, 2002).

Mitigation (Site Reclamation): As required under past Corps permits, excavation areas and related areas of disturbance (e.g., road crossings, temporary gravel stockpile areas) must be regraded before water levels rise in the rainy season. The regrading or reclamation must be completed by October 15th of each year. Continuance of operations after October 15th may be permitted depending on river conditions and if approved by Federal and State agencies. Active extraction sites would be maintained in a reclaimed condition at the end of each working day after October 1st. This would involve the smoothing of any berms and slopes and the filling of depressions that may lead to ponding of water and potential fish stranding. The site would be left in a condition of free draining, sloping toward the river channel, downstream or a compound slope, toward the river and in a downstream direction (See Sheet 3.). Haul roads, temporary stockpiles and other project features including the area of gravel extraction must avoid riparian or wetland vegetation. Usually a 50 foot buffer is established separating gravel extraction operations and related activities and riparian or wetland vegetation communities.

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 action proposed in accordance with the requirements of the National Environmental Policy Act of 1969 (Public Law 91-190), and pursuant to Council on Environmental Quality's Regulations, 40 CFR 1500-1508, and Corps of Engineers' Regulations, 33 CFR 230 and 325, Appendix B. The final NEPA analysis will normally address the impacts (direct, indirect, and cumulative) resulting 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 Mad River and its tributaries, including the project reach, is a migratory and spawning corridor for three anadromous fish species listed as threatened under the ESA by the National Marine Fisheries Service (NOAA Fisheries): coho salmon (*Oncorhynchus kisutch*), chinook salmon (*O. tshawytscha*), and steelhead (*O. mykiss*). The Mad River and its tributaries is also designated by NOAA Fisheries as critical habitat for the coho salmon. In past years, the Guynup Bar extraction operation has been covered under Incidental Take Statements, Terms and Conditions of NOAA Fisheries' Biological Opinions issued for LOP 96-1 and year-by-year extensions of the LOP in 2001 and 2002. The Corps will be initiating formal Section 7 consultation with NOAA Fisheries pursuant to the ESA, as amended (16 U.S.C. 1531 et seq.) regarding the potential impacts of the Guynup Bar gravel extraction operations on the listed salmonids and critical habitat for coho salmon.

Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA): The Mad River and its tributaries are designated as Essential Fish Habitat (EFH) under the MSFCMA, as amended (16 U.S.C. 1801 et seq.) for coho salmon and chinook salmon. The Corps will initiate consultation pursuant to EFH with NOAA Fisheries regarding the potential impacts of the Guynup Bar gravel extraction on Essential Fish Habitat.

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)). An evaluation under the 404(b)(1) Guidelines indicates that the project is not water/wetland dependent. The applicant may consider wetland pit type extraction where extraction would occur generally above OHW mark of the river but still within the river floodplain. These areas are flooded infrequently, between 2 to 10 ten years. Wetland pits have been extracted at other locations on the lower Mad River, where a pit is excavated down to or near ground water elevations. After extraction, the pits are set aside for the potential development of wetland areas. The wetland pits would have limitations including infrequent gravel recruitment, commitment to wetland restoration, and the presence of unsuitable materials for use as commercial aggregate, and limited extraction volume. The applicant has also evaluated other 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. 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 for commercial aggregate, the costs of processing unsuitable or low grade materials, and the risk of greater environmental impacts than the preferred in-stream mining activity.

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 Eureka Office, U.S. Army Corps of Engineers, P.O. Box 4863, Eureka, California 95502. 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's agent whose address is indicated in the first paragraph of this Notice, or by contacting Mr. David Ammerman of our Eureka Field Office, Regulatory Branch, by telephone at 707-443-0855 or by E-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. Attachment 1 of USACE Permit Application, prepared by Streamline Planning Consultants, dated March 24, 2003.

2. Berg A., D. Halligan, K. Hess. 2002. Biological Assessment for Soouthern Oregon/Northern California Coasts Coho Salmon, California Coastal Chinook Salmon, and Northern California Steelhead that may be affected by LOP 02-1, Gravel Extraction Operations in Humboldt County, CA.

3. Kondolf, G.M. 2001. Changes in Bed Elevation and Sediment Storage in the Mad River, 1970-1999. Report to Eureka Readimix. March 2001.