



US Army Corps
of Engineers®

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

NUMBER: LOP 96-2a

DATE: July 26, 2002

(File Number 26813N)

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

LETTER OF PERMISSION PROCEDURE GRAVEL MINING ACTIVITIES WITHIN DEL NORTE COUNTY

1. INTRODUCTION: On May 1, 2002, the San Francisco District, U.S. Army Corps of Engineers (Corps) issued a public notice proposing a new Letter of Permission (LOP) Procedure (LOP 2002-2) for gravel mining activities in Del Norte County, California. LOP 2002-2 was intended to supercede LOP 96-2, which authorized many gravel extraction activities in Del Norte County between 1997 and 2001. Attempts to resolve several issues connected with LOP 2002-2 have delayed its implementation. In order to authorize gravel mining activities during the 2002 extraction season, the Corps is hereby extending Letter of Permission Procedure 96-2 to LOP 96-2a with special conditions (see below). The extension shall expire December 31, 2002. The Corps informally coordinated with other federal resource agencies prior to extending the expiration date of LOP 96-2a. We anticipate that LOP 2002-2 will be implemented prior to the 2003 gravel extraction season.

2. BACKGROUND: On March 28, 1997, the Corps adopted an LOP procedure for the authorization of certain gravel extraction activities in Del Norte County. Except for the mitigating measures described below, the LOP 96-2 procedure was described in a public notice dated, March 28, 1997. The purpose of the LOP 96-2 procedure is to streamline authorizations pursuant to Section 10 of the Rivers and Harbors Act (33 U.S.C. 403) and Section 404 Clean Water Act (33 U.S.C. Section 1341) for gravel extraction activities and related work not posing significant adverse individual or

cumulative impacts. The LOP 96-2 procedure was originally valid until March 28, 2002. With authorization of LOP 96-2a, the Corps is extending the procedure until December 31, 2002.

3. ENDANGERED SPECIES: The Corps will request the National Marine Fisheries Service (NMFS) amend its biological opinion for LOP 96-2a to include the new expiration date of December 31, 2002. The Corps will also consult as appropriate with the U.S. Fish and Wildlife Service on endangered species issues.

Additional Mitigating Measures: The NMFS biological opinion, dated September 12, 1997 and amended September 5, 2000, for LOP 96-2 prohibited gravel extraction within the wetted channel as well as activities that might divert the low flow channel. After further review, NMFS has provided the following mitigating measures that could offset the adverse impacts from wet trenching and/or low flow channel diversion. The wet trenching and/or low flow channel diversion may be authorized on a case-by-case basis. Based on an analysis of the information available, the Corps has determined that the procedure shall be extended until December 31, 2002 and may authorize trenching with the following conditions:

1) Proposed extraction areas shall be located where geomorphic and riverine processes would normally result in pool formation and maintenance, as determined by a qualified hydrologist or

geomorphologist. Similarly, as recommended by the hydrologist or geomorphologist, runs may be utilized if that type of habitat can be maintained and not altered to unnatural pool habitat. In all cases, trenches shall not be located in riffles and shall be located at sufficient distance that head cutting of the trench will not affect riffle elevation and stability.

2) Proposed extraction areas shall be located where diversion of the stream channel to a natural side or overflow channel is possible and appropriate.

3) Proposed extraction shall be conducted in an area that is dry or otherwise devoid of streamflow, following diversion.

4) Instream trenching operations shall be limited to the period from July 15 through August 30 to minimize and buffer against impacts to migrating or rearing adult and juvenile salmonids.

5) Following extraction, all trenches created in the low flow channel shall have large woody debris placed within to reduce illegal fish poaching and provide habitat for holding or rearing adult and juvenile salmonids. Alternatively, boulders may be used in place of large woody debris.

6) On the day of diversion, the proposed extraction site must be herded and seined repeatedly until no further fish are captured, then electrofished by a qualified fishery biologist. Fish must be identified to species and immediately placed downstream of the extraction site. A quantitative report detailing the date of capture, species, and physical condition of all relocated fish shall be submitted to NMFS within one week of completion of electro fishing.

7) In addition to the existing monitoring requirements in LOP 96-2, the elevation and location of the stream channel thalweg and adjacent trench shall be mapped completely for a distance of at least

150 feet upstream and downstream of the extraction area before and immediately following extraction and at least once during the following winter high flows, using the same datum as cross-sectional information.

Surveyed profiles and cross sections shall include riffles located upstream and downstream of the trench in reaches where such habitat types are present. This may require surveying beyond 150 feet. The additional survey information shall be included in the pre- and post-extraction reports, whichever is soonest, and submitted to the Corps and NMFS concurrently.

8) All proposed extractions using instream trenching shall be submitted to NMFS for approval. Extraction designs shall follow Corps procedures and also include the thalweg profile as described above.

4. OTHER AGENCIES: The State of California has ownership or interest in numerous rivers and waterways in Del Norte County. Operators should send a copy of the pre-extraction report to the State Lands Commission concurrently with the submission to the Corps. The Commission may be contacted at 100 Howe Avenue, Suite 100 South, Sacramento, CA 95825-8202.

The National Park Service oversees consistency determinations on portions of the Smith and Klamath Rivers in Del Norte County. Each operator on these rivers should send a copy of the pre-extraction report to Attention: Mr. Harry Williamson, National Park Service 801 "T" Street, Suite 156B, Sacramento, California 95814

FOR MORE INFORMATION: For copies of the LOP procedure, please contact Mr. Michael Shirley at 707-443-0855. Telephone inquiries may be directed to Mr. Kelley Reid at the same number or e-mail kelley.reid@spd02.usace.army.mil.