



US Army Corps
of Engineers®
San Francisco District

SAN FRANCISCO DISTRICT

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

PUBLIC NOTICE

PROJECT: Huffman and Sultan Bar Gravel Extraction

PUBLIC NOTICE NUMBER: 2010-00249N
PUBLIC NOTICE DATE: December 18 2019
COMMENTS DUE DATE: January 18 2019

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1. **INTRODUCTION:** Tidewater Contractors (POC: Mr. Stuart Blanco, 541-469-5341), 16156 Highway 101 South, Brookings, OR, has applied to the U.S. Army Corps of Engineers (USACE), San Francisco District, for a Department of the Army Permit to discharge fill below the Ordinary High Water Mark of the Smith River in connection with the extraction of gravel (in-stream gravel mining) from the river. The applicant requests a permit for a ten-year period to remove up to 75,000 cubic yards, of gravel, sand and other aggregate products annually from the Huffman and Sultan gravel bars on the Smith River by bar skimming and trench excavation with heavy equipment. 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: The proposed project is located along the Smith River at 7390 South Bank Road, near the town of Smith River, Del Norte County, at latitude 41.875212°N longitude -124.128161°W. All gravel extraction activities would take place on Huffman and Sultan Gravel bars.

Project Site Description: The project area is located along the lower Smith River, immediately upstream of the Dr. Fine Bridge. This area is characterized by low to mid gradient alluvial river channel, with meander bends and the formation of point bars that tend to accumulate large quantities of sand and gravel. These exposed bars are generally devoid of woody vegetation but are likely to be seasonally colonized by various herbaceous species. The two gravel extraction locations, Huffman Bar and Sultan Bar, are located approximately 0.1 miles and 1.5 miles upstream of the Dr. Fine Bridge respectively. See

attachment 1.

Huffman Bar, is located approximately 700-1000 feet east (upstream) of the Dr. Fine Bridge between the river and South Bank Road. This gravel bar is approximately 3900 linear feet in length. The adjacent area is comprised of rural residential homes with large undeveloped areas consisting of agricultural and timber areas.

The Sultan Bar is the upstream most gravel bar used for commercial mining on the Smith River. The total length of the Sultan Bar is approximately 1,700 lineal feet extending along the right bank of the Smith River. Directly across from 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.

Project Description: As shown in the attached drawings, the applicant proposes to extract a maximum of 75,000 cubic yards total of sand, gravel and other aggregate annually from the Smith River. These are anticipated volumes based on previous extraction volumes from past seasons. Annual gravel extraction operations at the two bars typically result in approximately 6.0 acres of temporary impacts to waters of the U.S. and do not result in permanent impacts or loss of waters.

The actual volume removed and the specific area of extraction varies from year to year but may not exceed the maximum limits stated above. The gravel extraction is typically performed using a skim type method using a variety of heavy equipment including dozers, excavators, front end loaders, scrapers, and dump trucks to remove the aggregate material from gravel bars and transport the material to offsite stockpile areas.

Extraction surveys and calculations will be provided annually to the Corps for all future extraction operations and the proposed volumes may change from year to year. An annual harvest plan with survey data will be submitted

to all regulatory agencies for review.

All excavation will be done with heavy equipment loading directly into dump truck, or ten wheel highway truck. All equipment and vehicles used in the mining operation will be properly cleaned prior to entering the extraction areas, and properly maintained to minimize the possibility of spills or leaks.

Typically the Huffman Bar haul road from the extraction area to the processing facility is dry. Sultan Bar is accessed over a secondary channel via temporary bridge. In the event a water crossing is necessary to access either gravel bar, Tidewater will install a temporary bridge deck 45-90 feet long. A small amount of washed, native river rock material (5cyds or less) may be needed in order to create a level platform for concrete blocks to be placed. The bridge deck will be placed on concrete block footings. Concrete blocks may be placed in the water-body to create footings which will ultimately support a bridge deck. After annual extraction is completed, the concrete blocks will be removed from the water-body. Two 8x2ft areas may be needed in the water-body to create level platform footings for a bridge deck.

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 to extract gravel and other river run aggregate.

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 extract river run aggregate for commercial use.

Project Impacts: Up to 75,000 cubic yards of gravel would be extracted and/or redistributed within the 6.0 acre area of the stream bed over the 10 year authorization period. Some of the gravel may be removed and stockpiled outside the stream channel. Additionally, some woody debris and vegetation may be moved from locations within the extraction area.

Proposed Mitigation: Regulated discharge of fill material would be limited to redistributing native streambed substrate in order to reduce flooding, increase surface hydrologic connectivity, and improve fish passage. Therefore no compensatory mitigation would be required.

Project Alternatives: USACE has not endorsed the submitted alternatives analysis at this time. USACE will conduct an independent review of the project alternatives prior to reaching a final permit decision.

3. STATE AND LOCAL APPROVALS:

Water Quality Certification: State water quality certification or a waiver thereof 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) 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 is not likely to affect coastal zone resources.

Other Local Approvals: The applicant has obtained the following additional governmental authorizations for the project: California Department of Fish and Wildlife Lake and Streambed Alteration Agreement (LSAA # 1600-2010-0179-R1, August 11, 2010), Del Norte County Conditional Use Permit (UP8109, February 1, 2019), and

a Mining permit (Permit # 91-08-0001, July 1, 2018).

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. § 1500-1508, and USACE regulations at 33 C.F.R. § 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 ensure 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 project reach of the Smith River contains Federally-listed endangered Coho salmon (*Oncorhynchus kisutch*), threatened Chinook salmon

(*Oncorhynchus tshawytscha*), threatened Steelhead Trout (*Oncorhynchus mykiss*), and threatened Eulachon (*Thaleichthys pacificus*). 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, streambed, and the adjacent riparian zone. The overall project could potentially induce changes in channel morphology, including the loss of pool and riffle habitat and degradation of the riverbed; promote the stranding of salmonids on the affected bars; result in direct mortality of salmonids during installation of the bridge crossings and relocation of juvenile salmonids from the excavated pools; cause the loss of riparian vegetation and large wood debris; and generate turbidity and downstream sedimentation, the deposition of which would likely contribute to the degradation of spawning gravels. To address project related impacts to these species and designated critical habitat, USACE will initiate formal consultation with NMFS, pursuant to Section 7(a) of the Act. Any required consultation must be concluded prior to the issuance of a Department of the Army Permit for the project.

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*, or 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 and that the critical elements of Pacific Salmon EFH may be adversely affected by project implementation. To address project related impacts to EFH, USACE will initiate consultation with NMFS, pursuant to Section 305(5)(b)(2) of the Act. Any required consultation must be concluded prior to the issuance of a Department of the Army Permit for the project.

Marine Protection, Research, and Sanctuaries Act

(MPRSA): Section 302 of the MPRSA 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 any required certification or permit. The project does not occur in sanctuary waters, and a *preliminary* review by USACE indicates the project is not likely to 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. As the Federal lead agency for this undertaking, USACE has conducted a review of the latest published version of the *National Register of Historic Places*, survey information on file with various city and county municipalities, and other information provided by the applicant to determine the presence or absence of historic and archaeological resources within the permit area. Based on this review, 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. This conclusion raises the (rebuttable) presumption of the availability of a practicable alternative to the project that would result in less adverse impacts to the aquatic ecosystem while not causing other major adverse environmental consequences. The applicant has submitted an analysis of project alternatives which is being reviewed by USACE.

6. PUBLIC INTEREST EVALUATION: 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 in the project.

8. **SUBMITTING COMMENTS:** During the specified comment period, interested parties may submit written comments to L. Kasey Sirkin, 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 *Public Notices* tab on the USACE website: <http://www.spn.usace.army.mil/Missions/Regulatory>.