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Sonoma County Permit Resources and Management Department  
Attention: Ken Ellison  
2550 Ventura Avenue  
Santa Rosa, 95403

August 25, 2008

**SUBJECT: PRMD Recommended Action on Gualala Redwoods/Bedrock Products Gualala River Instream gravel mining (File No. UPE04-0040),, August 26, 2008 2:30 pm regarding response to comments, and modification of project description, mitigation, and mitigated negative declaration pursuant to California Environmental Quality Act.**

Dear Mr. Ellison:

As stated in your memorandum pre-dated August 26, 2008 to the Board of Supervisors, the project description, mitigation measures, and monitoring for the County's proposed mitigated Gualala Instream Gravel Mining Negative Declaration are now proposed to be modified substantially by County PRMD. It also appears that despite substantial modification of project descriptions, mitigation measures, and monitoring programs (all affecting substantial issues that were the focal points of public comments, including my own), the County is not recirculating the proposed Mitigated Negative Declaration, or re-opening public comment on the project.

I have previously commented on this permit and associated compliance issues. As I stated in previous correspondence, am a professional plant ecologist specializing in the conservation, restoration, and management of coastal vegetation, rare and endangered species, and their ecosystems. I have over 28 years of professional experience in this capacity, including extensive regulatory and environmental planning experience with the U.S. Fish and Wildlife Service (Sacramento Fish and Wildlife Office) and the U.S. Army Corps of Engineers, San Francisco District Regulatory Branch. My current independent work includes preparation of CEQA/NEPA (EIR/S) documents for the California Department of Water Resources and California Coastal Conservancy, and coastal streams and tidal wetlands restoration plans for the California State Parks, U.S. Fish and Wildlife Service, and nonprofit conservation organizations.

CEQA Guidelines Section 15088.5 states the following regarding EIR recirculation:

A lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review...but before certification. ... New information is not "significant"

unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of a project or a feasible or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement.

Significant new information requiring recirculation include, for example, a discussion showing that:

- (1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
- (2) A substantial increase in the severity of an environmental impact would result unless new mitigation measures are adopted that reduce the impact to a level of insignificance.
- (3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project's proponents decline to adopt it.
- (4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

These regulations apply substantially to Initial Study/Negative Declaration thresholds for recirculation.

Regarding criterion (1), mitigation measures that may themselves cause significant impacts, NMFS and CDFG mitigation measures rely on outdated baseline data regarding gravel replenishment rates from prior to 2003 (and, more significantly, prior to the current permit application and CEQA period) that presume excessive gravel transport and aggradation. There has been no field evidence or evidence in the file that supports the assumption of excessive gravel transport to mined reaches of the Gualala River during the current permit application and CEQA review period. All evidence regarding channel aggradation pre-dates 2003. Conditions in the field have indicated a failure of gravel replenishment (sediment deficits) in extraction sites, and expansion of riparian woodland at all successional stages upstream, downstream, and within mined reaches since the last episode of gravel mining in 2006. The misapplication of well-intended "mitigated" mining methods based on assumptions of net aggradation themselves may impose increased significant impacts due to channel destabilization. Specifically, revised mining methods in CDFG Stream Alteration Agreement and NMFS biological opinion include mining in "linear, off-channel excavation along historic channel locations...muted secondary channels" (oxbow extraction and secondary channel skim). At least one bar in 2006 suffered channel avulsion (bar and channel instability) following head-cutting and bar flattening (degradation) that resulted in formation of a secondary (high flow) channel that eventually captured the primary channel flow and eliminated steelhead habitat, as I documented in previous correspondence. This bar instability resulted from an "improved", "mitigated" progressive mining method predicated

on excessive gravel transport, but implemented in actual conditions of high energy flows and low bedload, which were conducive to degradation and instability. Similar potential for channel instability and avulsion exists, for example, at Bar 62, where the excavated bar has failed to replenish with gravel or restore its pre-excavation form. Each of these potential significant impacts is related to mistaken (and impermissible in CEQA) reliance on outdated environmental and project data that precede the CEQA review period and do not describe conditions at the time of the Notice of Preparation.

A further example of potential additional significant impacts due to new mitigation is related to mitigation measures aimed at controlling dust generation and deposition (CDFG SAA condition 8). The Gualala River is currently (August 2008) suffering anomalously low water levels and a prevalence of dewatered channel pools from the Wheatfield Fork at Annapolis Road/Stewarts Point Skaggs Springs Road, to the South Fork, despite rainfall in the watershed not significantly different from average in the last decade. Water drafting for gravel processing and dust control is likely to have significant cumulative impacts to a degree not foreseen in either the CDFG/NOAA mitigation review, or County Negative Declaration, because of current (not pre-2003) extreme low water levels and pool desiccation conditions that may recur in future years if they are due to flow deficits caused by recurrent upstream diversions.

Each of these new mitigation-related potential impacts could be significant unless new mitigation measures are adopted. Thus, criterion (2) is met for recirculation pursuant to Guidelines Section 15088.5

Two of the three optional mitigation measures proposed now are out-of-kind, offsite, and tenuously indirect in relation to mining impacts (based on large woody debris deposition, road improvements), and do not account at all for the impacts of unauthorized gravel mining in 2005 and 2006, or the impacts of perpetual inhibition of riparian vegetation succession (perpetual disturbance that precludes the rapid spontaneous restoration and maturation of riparian woodland evident outside mined areas). Insufficient mitigation to address the (effectively) permanent elimination of over 14 acres of successional riparian woodland is likely to cause significant impacts to both riparian biotic resources and channel habitat quality for listed steelhead. There is not enough specificity to methods and locations of riparian woodland restoration to conclude efficacy or sufficiency of mitigation for mining impacts.

The County's failure to include standard (see Humboldt County gravel mining permits and USACE permit conditions) biological inventory/survey, monitoring, and mitigation conditions for plants and wildlife clearly indicates significant potential impacts that simply have not been addressed at all by mitigation measures. The project documents fail to detect or recognize the presence of western pond turtles (I have personally observed juveniles and adults on the Wheatfield fork in the vicinity of Bar 65 in 2005). The applicant's revised August 5 2008 application and reclamation plan on p. 14 clearly states that the rare swamp harebell (*Campanula californica*) was found at 10 locations and "appears to be scattered and locally common along the alluvial flats and was found in natural marshy areas as well as seasonally wet and disturbed sites". The date of surveys is not current, but the evidence indicates a likelihood of occurrence in the project area. Populations of plants such as swamp harebell (which reproduces by seed and clonal growth) are not static: their distributions change with dispersal, colonization, local extirpation, and environmental change. There are no mitigation measures based on pre-extraction biological

surveys to make detection and avoidance of this (or other significant sensitive species) impact feasible. Addition of such biological survey/monitoring measures would reduce the significance of this impact. Thus, criterion (3) of Guidelines Section 15088.5 is met.

I would re-emphasize that significant impacts and significant deficiencies in even revised mitigation derive from the substitution of outdated environmental data, mostly from the previous permit (expired) period, for current environmental data consistent with CEQA's normal focus on the time of the Notice of Preparation. It is insufficient to provide only updated selective cross-section data for extraction and ignore the need to update basic environmental baseline information for project sites (including post-mining conditions from the unauthorized mining period in 2006) and the environmental setting (including geomorphic processes, riparian vegetation conditions, summer channel pool water levels and low flows, and steelhead populations).

I recommend that the County PRMD recirculate the mitigated negative declaration with the new project description and mitigation conditions, and supply a current environmental baseline consistent with CEQA and the proposed monitoring protocols of CDFG and NMFS.

Respectfully submitted,



Peter R. Baye, Ph.D.

Cc:

Alan Levine  
Friends of the Gualala River  
Stephan Volker  
Richard Grassetti