

COAST ACTION GROUP, P.O. BOX 215, POINT ARENA, CA 95468

August 22, 2008

Sonoma County Board of Supervisors
C/O Sonoma County Permit Resources and Management Department
575 Administration Drive,
Santa Rosa, California 95403

Attn.: Ken Ellison and Board of Supervisors

Subject: Additional Comments (extent of comment period unknown) - Application (File - UPE 04-0040) from Henry Alden, Gualala Redwoods, requesting Amendments to Aggregate Resources Management Plan and ordinance revising mining standards for the mining reach of the Gualala River-zone change to add the MR combining district to the instream portion of the affected parcels; use permit to extend the permit term for an additional 10 years; Reclamation Plan update for instream operation and gravel processing site on various parcels at 39900, 40400 Annapolis Dr.

Overview

This letter is to address new changes to the file - new documents and alteration of the final planning document (Negative Declaration and Mitigatory Language).

With addition to the file information from NMFS (Biologic Opinion - dated August 18th), Department of Fish and Game Lake and Streambed Alteration Agreement Notification (dated August 15th), and communication with the Regional Board (401 Certification and Stormwater NPDES permit yet to be completed), and changes to the file resulting from these documents and consultation with the above noted responsible agency, the staff at PRMD has made improvement to the proposed Negative Declaration. These improvements have been made with additional language, conditions and restraints, in an effort to address environmental issues. However, in review of the above mentioned documents it is found that there is serious omission of wording and conditions requested by the above noted agencies that should have been, but have not been included in the proposed Negative Declaration.

It is unclear if the Board of Supervisors intends to allow more public testimony. In consideration of the addition of new documents and language changes that affect the project design and mitigatory process, under CEQA, the public should be allowed adequate time for review and opportunity to enter comment into the record.

Another complicating factor is the period of time allowed for review of the proposed Negative Declaration by the public and responsible agency. It appears that PRMD was under pressure to complete the Negative Declaration without adequate time to complete a comprehensive and detailed effort - and to allow for a reasonable review period for all parties (including the Supervi-

sors). With this new information the project has changed substantially. The Board packet is very large and will not be received by Board members until Friday. The ten day period allowed for review (notice mailed on August 15th for hearing on the 26th) is not adequate.

Also, the file is replete with conflicting reporting and testimony from experts and the project proponent. This information, when fully considered, indicates that there is sufficient disagreement from experts on current conditions, ongoing and potential impacts, and the nature of appropriate mitigations to support argument for the need for additional environmental review in the form of an EIR.

Mitigations noted in NMFS Biologic Opinion and Department of Fish and Game Notification - Stream Bed Alteration Agreement

These documents clearly defined the status of the condition of the Gualala River in the area of the project and indicate the necessary mitigatory conditions requisite to mining. There are significant elements of this language that has not been addressed, or included, in the proposed Negative Declaration. It is recommended that the above mentioned documents (or all conditions and mitigations noted in these documents) be amended into the project.

Areas of concern from EXHIBIT "A" - Conditions of Approval and Mitigation Monitoring Program:

Conditions to protect further diminishment of low flows and pool volume from water use and drafting (or diversion) are not included in the Neg. Dec. (See NMFS B0 p.8-9, DFG p.7,16)

Conditions to limit turbidity are not included in the Neg. Dec. (See NMFS B0 p.8, DFG also mentioned)

Condition that all stream crossing use washed rock for fill is not included in the Neg. Dec. (See NMFS B0 p.7, DFG also mentioned in stream crossing discussion)

Condition to protect upper one third of the bar in not included in the Neg. Dec. (See NMFS B0 p.6, DFG p.5)

Condition for thalweg survey does not conform to NMFS and DFG recommendation(s) (See NMFS B0 p.8, DFG also mentioned)

Both DFG and NMFS call for a yearly (prior to operations, site specific) operating plan (with post harvest and pre-harvest monitoring) to be reviewed and approved by PRMD, NMFS, and DFG prior to start of operations (See NMFS B0 p.11,12, DFG p.5).

Both DFG and NMFS call for surveys, prior to and at the end of operations, to justify recruitment above baselines levels that would justify mining - where harvesting above recruitment levels would not be permitted. (See NMFS B0 p.12, DFG also mentioned).

Reclamation Plan and monitoring must be approved prior to mining (See NMFS B0 p. 13).

Mitigation Plan and monitoring must be approved prior to mining (See NMFS B0 p. 14).

NMFS (BO) noted elevated water temperature in (and above and below) the area of the project as a limiting factor for salmonid survival. (Note: the Gualala River is listed as impaired due to the pollutant temperature - State Impaired Waterbodies List). NMFS linked the temperature impaired condition to loss of canopy, in the area of the project and area upstream, low water flows, loss of pools, and increased channel width. This project must be mitigated to the point that no additional temperature increases from these factors can occur (See NMFS discussion and Basin Plan Anti-degradation Language). NMFS did note that gravel extraction has exacerbated some of these factors that have lead to temperature increases. (Note: this language conflicts with statement in the PRMD staff report) The environmental document must demonstrate how the factors of riparian shade, channel width, pools, and stream flow will not only not be allowed to degrade from current conditions (as current conditions are unacceptable), but will be improved.

NMFS (BO) included language mandating the verification that gravel extraction will not occur beyond replenishment rates. If replenishment diminishes, then extraction levels must similarly be diminished. NMFS also stated that gravel extraction may impede the natural geomorphic recovery process and that mining may impede the geomorphic recovery process. How is this addressed in the Negative Declaration? (See NMFS BO p.32 - 34)

NMFS (BO) included language concluding that higher bars supported better channel morphology. The project should absolutely protect bar heads. (See NMFS B0 p. 34).

NMFS (BO) included language concluding that mining reduces the cobble layer as armor - where the removal of same increases turbidity levels. How will turbidity levels be minimized to levels that comply with the Basin Plan?

NMFS (BO) states that stream crossings will be in place from July 1 to October 1 - only. This language is not included in the Negative Declaration.

DFG states that final grading shall have no dips or depressions. This language is absent from the Neg. Dec. (See DFG #5, p. 5)

The Neg. Dec. does not include DFG language for Stream Crossings. (See DFG #7, p.7)

The Neg. Dec. does not include DFG language for Riparian Canopy and Planting for recovery (See DFG #19, p8).

The Neg. Dec. does not include DFG language for submission of annual Mitigation Plan for approval by DFG (See DFG #20, p. 8-9).

Staff Report:

Reference was made to the existing ARM plan. The ARM plan is deemed insufficient by NMFS to fully mitigate potential impacts from gravel mining. It is noted by PRMD that even with ARM

plan mitigations there may be some impacts that are unmitigable. Analysis of any such unmitigable impacts should be part of environmental review of this project.

Applicants final revision for the project proposal is claimed to "ensure compliance" with all agency requirements. This statement is not founded in fact. Missing language from the NMFS BO and the DFG document make the "ensure compliance" statement incorrect. In addition, language from the Regional Board 401 Certification Conditions, and Stormwater NPDES permit has not been fully considered.

Issue #2: Baseline: The conclusion that there have been no significant changes to the physical conditions in the affected areas since environmental analysis commenced is not consistent with expert testimony in the file - including NMFS BO. This issue is a matter of debate.

Baseline language could use more definition and development of assurance that appropriate baseline data will be carried forward for future use.

Issue #3: Comment Letters: The claim that there are no continuing impacts from gravel mining to the channel morphology is contested. Evidence of the narrowing of the channel is not substantiated by evidence in the file. The fact is the channel is too wide thus exacerbating conditions of elevated water temperatures and desired channel morphological conditions. Improperly managed mining can add to these degraded conditions adversely affecting salmon survival. (See NMFS BO)

At this point the plan has not been completely brought into conformance with requirements of NMFS, DFG, and the Regional Board (see above language in this document). The County's proposed mitigation and monitoring language is not in total conformance with the language brought forth by NMFS, DFG, and the Regional Board. Unmitigable impacts noted by PRMD, identified in ARM plan, must be discussed and open to public and agency review.

Issue #4 : NMFS Biologic Opinion: The NMFS BO did say, as noted in the PRMD staff Report, that the project is not likely to result in the destruction or adverse modification of critical habitat for North Coastal Steelhead (California Coho or Chinook were not included in this statement), and that the project is not likely to jeopardize the continued existence of threatened Northern California Steelhead. This statement by NMFS was predicated on the inclusion of their conditions for the project as stated in the Biologic Opinion. These statements do not hold true without the inclusion of the NMFS conditional standards in their entirety.

Issues related for the need of an Incidental Take Permit for stream crossing activity needs more discussion and mitigatory language.

Conclusion:

Conflicting expert testimony, incomplete mitigatory process (leaving out NMFS and DFG language for conditions to mitigate project), and the seriously impaired nature of the Gualala River (including reaches proposed to be mined), all point to the need for an EIR for this project. The

file speaks this need as the "Fair Argument Standard" is established and noted by testimony and evidence in the file.

It should also be noted that: Most gravel extraction operations in Sonoma County are supported by the more complete environmental review of an EIR and that just recently the Sonoma County Planning Commission, while refusing to certify the Syar EIR, suggested that the ARM plan might be insufficient and in need of updating (as does the language in their NMFS Biologic Opinion).

This project can not be approved as a Negative Declaration without adding all the mitigatory language provided by NMFS, DFG, and the Regional Water Quality Control Board.

Sincerely,

For Coast Action Group.

Attachment:

National Marine Fisheries document (on a CD) on Gravel Mining Effects in Northern California Streams.