



US Army Corps
of Engineers®
San Francisco District

Regulatory Branch
1455 Market Street, 16th Floor
San Francisco, CA 94103-1398

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

Project: Gualala River Gravel Mining

NUMBER: 2004-28820N

DATE: July 2, 2008

RESPONSE REQUIRED BY: August 1, 2008

PERMIT MANAGER: Bryan Matsumoto

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1. **INTRODUCTION:** Mr. William Hay, Bedrock Products, Inc., P.O. Box 366, Point Area, CA 95468, (707) 882-2323, has applied to the United States Army Corps of Engineers (Corps) for a Department of the Army Individual Permit to seasonally remove up to 40,000 cubic yards (cys) of sand and gravel from the South Fork and Wheatfield Fork of the Gualala River, between Gualala and Stewarts Point, Sonoma County, California (Figures 1-2). The duration of authorization, should it be accepted, would be for ten years from the date of the permit issuance. This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. Section 1344).

2. PROPOSED PROJECT:

Project Site: The project site includes 12 gravel bars along 6.9 miles of the South Fork of the Gualala River, and 1.4 miles of the Wheatfield Fork of the Gualala River (Figures 3 thru 11). The 12 gravel bars occupy approximately 33.5 acres. The South and Wheatfield Forks of the Gualala River are characterized by a series of low-gradient meander bends and point bars that have historically accumulated large volumes of sand and gravel originating from the upper watershed. The immediate project reach is comprised of flatwater habitat (45%), riffles (9%), and pools (46%). Riparian vegetation along the project reach consists of dense stands of second the third growth conifers with maple, bay, and alder trees lining the higher bank. Willows are present in patches along portions of the low-flow channel and abandoned side channels.

Project Description: The applicant proposes, in a cooperative arrangement with the primary land owner, Gualala Redwoods, Incorporated (POC: Henry Alden, P.O. Box 197, Gualala, CA 95445), to annually remove up to 40,000 cys of sand and gravel. Extraction will be completed above the water surface on the dry bar surface by front end loaders, scrapers, tracked bulldozers, excavators, and dump trucks. All extraction will occur within an area surrounded by existing ground buffers at the head of the bar, edge of the water, and floodplain banks. Finished grades will provide for positive drainage towards the low flow channel following inundation by post-mining flow events. The head of the bar and edge of the water buffers will be left intact so that moderate flows and the associated bed load are directed around the bar via the low-flow channel. The head of the bar buffer will be sloped at a 5:1 grade to minimize potential for head cutting at high flows.

A variety of extraction methods will be employed, including but not limited to, secondary channel skim, horseshoe skim, traditional skim, inboard skim, alcove, and oxbow extraction. These methods will be chosen based on the annual extraction plan (AEP). The AEP will be formulated to minimize impacts to the riverine system through a combination of river monitoring activities involving periodic biological monitoring, evaluation and comparison of aerial photographs coupled with the surveying and comparison of recent and historic surveyed full-channel cross-sections or digital terrain models, which identify hydrological and morphological alterations, and

instream data collected by the Gualala River Watershed Council.

The AEP will be submitted to the appropriate agencies for review, comment, and approval prior to yearly activities.

Extraction will require up to 10 temporary access crossings. Crossings will typically consist of rail flat car bridges or suitably sized culverts placed across a narrow portion of the channel.

Purpose and Need: The basic project purpose is to remove sand and gravel from this reach of the Gualala River. The applicant states that the overall project purpose is to establish an economically beneficial extraction method for sand and gravel from the Gualala River to provide a local source of aggregate materials for construction uses in Sonoma and Mendocino Counties.

The applicant states that the project is needed to provide local employment and low cost sand and gravel. Due to the reduction in other mining operations in Sonoma County, gravel is now being imported on barges up the Petaluma River to Petaluma from British Columbia. If mining stopped at Valley Crossing, the local demand for gravel would ultimately be met by increased imports from British Columbia, which would result in higher costs and job loss.

Impacts to Corps of Engineers jurisdiction: Regulated dredged and fill material discharges associated with the project would generally be minor and/or temporary, and would include re-depositing of gravel on the bars during routine skimming operations; temporary stockpiling of gravel on the bars; grading of the bars to remove pits and depressions, and back grading of sand and gravel from the water's edge to minimize spillage in the low-flow channel. Dredged and fill material discharges associated with the installation of the temporary road crossings in the low-flow channel are not subject to regulation under Section 404 of the Clean Water (33 U.S.C. 1344), pursuant to the exemption specified at 33 CFR Part 323.4(a)(6);

this exemption is premised on the use of "best management practices" during construction and maintenance of the road crossing to ensure adverse impacts to aquatic resources do not occur. Excavation *per se* and incidental fallback of material associated with excavation work no longer constitute regulated dredged or fill discharges, as a result of the repeal of the Tulloch Rule on July 9, 1998, by the U.S. Court of Appeals for the District of Columbia Circuit.

Mitigation: The applicant has decided on a watershed enhancement approach to mitigation, which would include either decommissioning of forest roads, or instream habitat enhancement through placement of engineered woody debris structures.

The segments of road to be decommissioned would be selected in consultation with the Gualala River Watershed Council, and Gualala Redwoods, Inc. If this mitigation is chosen, it is anticipated that over the ten year period, 1,222 cys of sediment will be prevented from being delivered into the Gualala River from 2.5 miles of decommissioned road.

If woody debris structures were chosen as the preferred method, the Gualala River Watershed Council would be consulted for input on the selection of streams and placement of the structures. Fifty root wads or logs would be placed within the ten year permit timeframe. Each piece would be greater than 50 cubic feet and placement would be in accordance with the Gualala River Watershed Council's Large Wood in the Stream Protocols.

3. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

National Environmental Policy Act of 1969 (NEPA): The Corps will assess the environmental impacts of the proposed action in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. Section 4371 et. seq.), the Council on Environmental Quality's Regulations (40 C.F.R. Parts 1500-1508), and the Corps' Regulations

(33 C.F.R. Part 230 and Part 325, Appendix B). Unless otherwise stated, the Environmental Assessment will describe only the impacts (direct, indirect, and cumulative) resulting from activities within the Corps' jurisdiction. The documents used in the preparation of the Environmental Assessment will be on file with the U.S. Army Corps of Engineers, San Francisco District, Regulatory Branch, 1455 Market Street, San Francisco, California 94103-1398.

Endangered Species Act of 1973 (ESA): Section 7 of the Endangered Species Act requires formal consultation with the U.S. Fish and Wildlife Service (FWS) and/or the National Marine Fisheries Service (NMFS) if a Corps permitted project may adversely affect any Federally listed threatened or endangered species or its designated critical habitat.

The Corps has made a preliminary determination that the proposed project will adversely affect federally-listed Northern California threatened steelhead (*Oncorhynchus mykiss*), California Coastal threatened chinook salmon (*Oncorhynchus tshawytscha*), Central California Coast endangered coho salmon (*Oncorhynchus kisutch*), and designated critical habitat for coho salmon and steelhead. The Corps has initiated formal consultation with the NMFS in accordance with Section 7(a)(2) of the Endangered Species Act for potential impacts to the species listed above, in a letter dated March 22, 2008. The consultation process must be concluded prior the issuance of any Department of the Army Permit for the project.

Magnuson-Stevens Fisheries Conservation and Management Act: The NMFS and several interagency fisheries councils have designated specific water bodies as Essential Fish Habitat (EFH) in accordance with the Magnuson-Stevens Fisheries Conservation and Management Act. The Gualala River occurs within EFH for the Pacific Salmon Fishery that includes both coho and chinook salmon. Essential fish habitat for these species corresponds to their designated critical habitat. Due to the presence of EFH on the project site, consultation for adverse impacts to EFH was included in the aforementioned Section 7 letter.

Clean Water Act of 1972 (CWA):

a. Water Quality: Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), an applicant for a Corps permit must first obtain a State water quality certification before a Corps permit may be issued. The applicant has provided the Corps with evidence that he has submitted a valid request for State water quality certification to the North Coast Regional Water Quality Control Board. No Corps permit will be granted until the applicant obtains the required water quality certification. The Corps may assume a waiver of water quality certification if the State fails or refuses to act on a valid request for certification within 60 days after the receipt of a valid request, unless the District Engineer determines a shorter or longer period is reasonable for the State to act.

Those parties concerned with any water quality issue 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.

b. Alternatives: Evaluation of this proposed activity's impact 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. Section 1344(b)). An evaluation has been made by this office under the guidelines and it was determined that the proposed project is not water dependent. The applicant has not submitted an Analysis of Alternatives and has been informed that such an Analysis is required and will be reviewed for compliance with the guidelines.

National Historic Preservation Act of 1966 (NHPA): Based on a review of survey data on file with various City, State, and Federal agencies, no historic or archaeological resources are known to occur on-site or in the project vicinity. Since the exposed bars are comprised of sediments recently deposited by high water-flow events, aggregate

excavation work would not likely encounter intact archaeological resources. If unrecorded historic or archaeological resources were discovered during excavation work, such operations would be suspended until the USACE concluded Section 106 consultation with the State Historic Preservation Officer to take into account any project-related impacts to these resources.

Coastal Zone Management Act of 1972 (CZMA): Section 307(c) of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1456(c)), requires a non-Federal applicant seeking a federal license or permit to conduct any activity occurring in or affecting the coastal zone to furnish a certification that indicates the activity conforms with the State's coastal zone management program. Generally, no federal license or permit will be issued until the appropriate State agency has concurred with the certification statement or has waived its right to do so. The project does not occur in the coastal zone, and a preliminary review by the USACE indicates that the project would not likely affect coastal zone resources. This presumption on effect, however, remains subject to a final determination by the California Coastal Commission.

4. PUBLIC INTEREST EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impact, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits that reasonably may be expected to accrue from the proposed activity must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered, including its cumulative effects. Among those factors are: conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline 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.

5. 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 to determine whether to issue, 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 in the proposed activity.

6. SUBMISSION OF COMMENTS: Interested parties may submit, in writing, any comments concerning this activity. Comments should include the applicant's name and the number and the date of this Public Notice, and should be forwarded so as to reach this office within the comment period specified on Page 1. Comments should be sent to the U.S. Army Corps of Engineers, San Francisco District, Regulatory Division, 1455 Market Street, San Francisco, California 94103-1398. It is the 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 Public 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 whose name and address are indicated in the first paragraph of this Public Notice or by contacting Bryan Matsumoto of our office at telephone 415-503-6786 or E-mail: Bryan.T.Matsumoto@usace.army.mil. Details on any changes of a minor nature that are made in the final permit action will be provided upon request.