



**US Army Corps
of Engineers®**

PUBLIC NOTICE

Applicant: Humboldt County
Gravel Operators and Mining
Companies

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**San Francisco District
Permit Application No. SPN-2007-00857**

TO WHOM IT MAY CONCERN: The San Francisco District of the U.S. Army Corps of Engineers (Corps) has received an application for a Department of the Army permit pursuant to Section 404 of the Clean Water Act (33 U.S.C. §1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. §403). The purpose of this public notice is to solicit comments from the public regarding the work described below:

APPLICANTS: Humboldt County Gravel Operators and Mining Companies

WATERWAYS AND LOCATION: Specific gravel bars within Humboldt County, on the following rivers: the Eel River including the Middle and South Forks, the Van Duzen, Bear, Mattole and Trinity rivers; and Redwood Creek.

EXISTING CONDITIONS: Since 1996, the Corps, San Francisco District, has provided a Letter of Permission (LOP) procedure (for example the LOP 2004-1, LOP 2009-1 and LOP 2015-1) for granting expedited permits to the gravel companies operating in Humboldt County, California. The most recent LOP procedure expires on December 31, 2025. The Corps proposes to renew the Letter of Permission procedure (LOP 2015-1) for the authorization of work described herein. The purpose of the LOP procedure is to streamline permit authorization for applicants proposing gravel extraction and related work not posing significant adverse individual or cumulative impacts to the aquatic environment pursuant to the provisions of Section 404 Clean Water Act of 1972 as amended (33 U.S.C. § 1344 et seq.), and Section 10 of the Rivers and Harbors Act of 1899, as amended (33 U.S.C. § 403 et seq).

In general, the sites occur in river systems with annual flow events that result in large deposits of aggregate material suitable for mining. Gravel bar sites vary in size from less than an acre to many acres, however, gravel bars are dynamic and exhibit annual variations based on hydrology and geomorphic conditions. A majority of the bars that would be authorized for extraction under LOP 2025-1 have been extracted for decades, many since the LOP Procedure was developed in 1996, and some of the sites prior to 1996. Vegetation is typically minimal, with some annual recruitment of small shrubs and willows, which are generally scoured away during winter storm flows. Some locations have mature riparian forests along the top of bank. All gravel mining occurs below the plane of ordinary high water, subject to Section 404 of the Clean Water Act, with some sites occurring in waters subject to Section 10 of the Rivers and Harbors Act.

PROJECT PURPOSE:

Basic: To expedite the authorization of work associated with gravel mining at various sites in Humboldt County.

Overall: To expedite decisions, facilitate compliance enforcement, and reduce the number of individual permits for routine permit actions associated with gravel mining and excavation activities in waters of the United States, within Humboldt County, California.

PROPOSED WORK: The proposed project is the renewal of the 10-year LOP procedure for regular gravel extraction activities that include, but are not limited to, sand and gravel extraction and work associated with these activities, such as temporary storage of gravel in a dry section of the stream, salmonid habitat improvement activities associated with the gravel extraction locations, and installation of temporary road crossings. The LOP procedure would be valid for 10 years, from December 31, 2025- December 31, 2035. Under LOP 2025-1, gravel mining operators (operators) receive a site-specific LOP after which, on an annual basis and following the process laid out in LOP-2025-1, an annual Letter of Modification (LOM) would authorize the annual extraction. Annual plans include limitations intended to protect the environment and natural and cultural resources. The LOP 2025-1 details the scope and location of work, terms and conditions, and application procedures pertinent to obtaining an individual operator-specific LOP and subsequent modifications under the procedure. In addition, it lists special conditions and monitoring activities that will be required to provide consistent information for decision making within this process.

Actions authorized by this LOP procedure also include certain activities at project areas, during extraction seasons, designed to enhance habitat for salmonids and other riverine species. The specific details of such habitat enhancement activities shall be determined during, and follow, the same pre-extraction design review process that is used for annual gravel extraction operations. Many of the habitat enhancement activities shall be consistent in scope, size and cost impact as restoration activities that have occurred in the past under LOP 2015-1. These activities included, but were not limited to, trenching designed to improve salmon migration, alcove construction, placement of edge water large woody debris, strategic placement of large wood and boulders, riparian plantings, and construction of wetland pits to improve aquatic and riparian habitat. The biological assessments (BAs) under preparation for this procedure are expected to provide a more detailed description of activities and assessments of effects of gravel extraction and habitat enhancement activities.

AVOIDANCE AND MINIMIZATION: The LOP 2025-1 contains general conditions intended to avoid and minimize impacts to the aquatic habitat. All annual proposed gravel extraction plans go through a review process including on-site and additional measures may be added to individual LOPs on a case-by-case basis and included in the LOM based on current conditions to minimize adverse impacts to the aquatic ecosystem.

COMPENSATORY MITIGATION: All work would occur in the active channel and gravel bar areas where gravel replenishment has historically and consistently occurred. Compensatory mitigation would be decided on a case by case, site specific basis for all unavoidable impacts to jurisdictional wetlands and waters during the annual extraction plan review and LOM process.

CULTURAL RESOURCES:

The Corps is evaluating the undertaking for effects to historic properties as required under Section 106 of the National Historic Preservation Act. This public notice serves to inform the public of the proposed undertaking and invites comments including those from local, State, and Federal government Agencies with respect to historic resources. Our final determination relative to historic resource impacts may be subject to additional coordination with the State Historic Preservation Officer, federally recognized tribes and other interested parties.

The District Engineer's final eligibility and effect determination will be based upon coordination with the SHPO and/or THPO, as appropriate and required, and with full consideration given to the proposed undertaking's potential direct and indirect effects on historic properties within the Corps-identified permit area.

ENDANGERED SPECIES: The Corps has performed an initial review of the application, the U.S. Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC), National Marine Fisheries Service (NMFS) Section 7 Mapper, and the NMFS Critical Habitat Mapper to determine if any threatened, endangered, proposed, or candidate species, as well as the proposed and final designated critical habitat may occur in the vicinity of the proposed project. Based on this initial review, the Corps has made a preliminary determination that the proposed project may affect species and critical habitat listed below. No other ESA-listed species or critical habitat will be affected by the proposed action.

As the Federal lead agency for this project, the Corps has conducted a review of available data and other information provided by the applicants to determine the presence or absence of such species and critical habitat in the project area. Based on this review, the Corps 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 reach along the lower Eel River contains Federally-threatened western snowy plover (*Charadrius alexandrinus nivosus*) and designated critical habitat for this species; Federally-threatened western yellow-billed cuckoo (*Coccyzus americanus*), and designated critical habitat for this species; and the Federally-endangered tidewater goby (*Eucyclogobius newberryi*). The rivers and streams of Humboldt County support Federally-threatened Southern Oregon/Northern California coastal (SONCC) coho (*Oncorhynchus kisutch*) and Federally-threatened California Coastal Chinook salmon (*O. tshawytscha*), as well as Federally-threatened Northern California steelhead (*O. mykiss*) and their designated critical habitat. Critical habitat designated for Coho salmon includes 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 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 Federally-listed species and designated critical habitat, the Corps will initiate formal consultation with USFWS and 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.

ESSENTIAL FISH HABITAT: Pursuant to the Magnuson-Stevens Fishery Conservation and Management Act 1996, the Corps reviewed the project area, examined information provided by the applicant, and consulted available species information. 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 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 Coast Salmon FMP*. As the Federal lead agency for this project, the Corps 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, the Corps has made a *preliminary* determination that EFH is present at the project location or in its vicinity and that the critical elements of EFH may be adversely affected by project implementation. The proposed action may result in insignificant to less than significant adverse effects on EFH conditions for adult migration, spawning, egg to fry survival, and smolt migration habitats for species managed under the Pacific Coast Salmon FMP. The proposed action may result in more than minimal, but less than substantial effects on fry rearing habitat for Chinook salmon and coho salmon. To address project related impacts to EFH, the Corps 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. Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the National Marine Fisheries Service.

NAVIGATION: The proposed structure or activity is not located in the vicinity of a federal navigation channel.

SECTION 408: The applicant will not require permission under Section 14 of the Rivers and Harbors Act of 1899 (33 USC 408) because the activity, in whole or in part, would not alter, occupy, or use a Corps Civil Works project.

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 is hereby notified that, unless USACE is provided documentation indicating a complete application for water quality certification has been submitted to the RWQCB within 30 days of this Public Notice date, the District Engineer may consider the Department of the Army permit application to be withdrawn. 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.

NOTE: This public notice is being issued based on information furnished by the applicant. This information has not been verified or evaluated to ensure compliance with laws and regulation governing the regulatory program. The geographic extent of aquatic resources within the proposed project area that either are, or are presumed to be, within the Corps jurisdiction has been verified by Corps personnel.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts 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, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including cumulative impacts thereof; among these are conservation, economics, esthetics, general environmental concerns, wetlands, historical 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. Evaluation of the impact of the activity on the public interest will also include application of the guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act or the criteria established under authority of Section 102(a) of the Marine Protection Research and Sanctuaries Act of 1972. A permit will be granted unless its issuance is found to be contrary to the public interest.

COMMENTS: The Corps 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, modify, condition, or deny a permit for this proposal. To make this determination, comments are used to assess impacts to 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 (EA) and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act (NEPA). Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

The San Francisco District will receive written comments on the proposed work, as outlined above, until June 12, 2025. Comments should be submitted electronically via the Regulatory Request System (RRS) at <https://rrs.usace.army.mil/rrs> or to F Kelly Finn at Fairfax.K.Finn@usace.army.mil. Alternatively, you may submit comments in writing to the Commander, U.S. Army Corps of Engineers, San Francisco District, Attention: F Kelly Finn Eureka Field Office, 601 Startare Drive #13, Eureka, CA 95501 Please refer to the permit application number in your comments.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Requests for a public hearing will be granted, unless the District Engineer determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing.