



DEPARTMENT OF THE ARMY
SAN FRANCISCO DISTRICT, CORPS OF ENGINEERS
211 MAIN STREET
SAN FRANCISCO, CALIFORNIA 94105 - 1905

APR 09 1992

Regulatory Branch

Mr. Donald C. Tuttle
 Environmental Services Manager
 Department of Public Works
 County of Humboldt
 1106 Second Street
 Eureka, California 95501-0579

Dear Mr. Tuttle:

The Corps of Engineers has reviewed the Draft Program Environmental Impact Report on Gravel Removal on the Lower Eel River (February, 1992). The proposed project consists of the removal of approximately 1.3 million cubic yards of gravel per year from the Eel and Van Duzen Rivers. The gravel would be removed by the excavation of trenches measuring approximately 1,600 feet long, 50 feet wide, and 15 feet deep. Stockpiling would occur in the river bed. Currently, 868,000 cubic yards of gravel are removed per year from this system per year. The new proposal includes the removal of an additional 440,000 cubic yards per year. The Corps of Engineers regulates certain activities associated with gravel mining under Section 404 of the Clean Water Act (33 U.S.C. Parts 320 through 330) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403). Under the the Clean Water Act, the Corps regulates the placement of fill into "waters of the United States". On the Eel River, these "waters" extend to the high tide line in tidal waters and to to the ordinary high water mark on nontidal waters and include adjacent wetlands. Gravel mining activities that may require Section 404 authorization include, but are not limited to, stockpiling, disking, channelizing, bank modification, sorting, and river crossings. In certain instances, some of these activities are authorized under Nationwide Permits. However, these permits do not apply to designated Wild and Scenic Rivers. Under Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), the Corps regulates certain work in or affecting navigable waters of the United States. The Eel River is considered to be navigable from its mouth to Worsick. For the purpose of gravel mining, regulated work includes, without limitation, excavation, filling, or other modifications of the of the navigable water. Work performed under this gravel mining proposal, therefore, may require Corps of Engineers authorization.

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4/30/92

APR 13 1992

The Corps recognizes the need to perform a program environmental analysis of mining in the Eel River and commends Humboldt County's efforts to complete such a study. We do, however, have several comments regarding the clarity and accuracy of Draft Environmental Impact Report (EIR). These comments are outlined below.

General Comments:

The County states that the objectives of the gravel mining are as follows:

1. to provide an economic return to the operators and land owners;
2. to provide jobs;
3. to provide gravel, sand, and crushed rock for construction projects both in and outside of Humboldt County;
4. to increase the tidal prism of the estuary; and
5. to enhance the quality of the fish habitat in the lower Eel River.

However, these objectives are not fully discussed in terms of the project impacts or project alternatives. It appears that changes in the tidal prism and fisheries habitat are results, rather than driving forces, in the development of this mining proposal. In addition, it has not been established that beneficial impacts to the estuary or the fisheries would, or may, occur from the proposed activity. In order to maintain these points as objectives, the County should develop a management plan which addresses these issues. This plan should specify the optimal tidal prism of the estuary and should evaluate alternatives for achieving the stated goal. In addition, it should identify the limiting factors of the fisheries habitat in the lower Eel and Van Duzen Rivers and should evaluate alternatives for enhancing these habitat components. Otherwise, these components should be removed from the statement of purpose. They, however, should be fully evaluated as impacts of the proposed mining.

Furthermore, the discussion of alternatives is limited to the No Action alternative, an adjustable extraction rate based on annual replenishment alternative, a reduced extraction volume alternative, an upland quarry alternative, and the proposed 1.3 million cubic yard per year extraction rate alternative.

With the exception of the proposed project, each of these alternatives is excluded from analysis with very little information provided. In order to justify the exclusion of an alternative, the County should demonstrate that the alternative is not feasible, does not meet the project purpose, or is not the least environmentally damaging option. Moreover, additional alternatives should be evaluated. Potential alternatives may include, at a minimum, continued bar skimming, terrace mining, and mining bars at alternative locations (especially for Site 6).

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In addition, the area of study is not clearly defined in the DEIR. It appears that, in some cases (e.g. endangered species), it is limited to the bars proposed for excavation. A larger geographic area which encompasses the area of potential impact should be included in the study area. A map clearly delineating this area should be included in the EIR. Also, the presentation of environmental setting and potential impacts in the DEIR is very unclear. The two sections should be clearly separated. Under environmental setting, the existing condition of each environmental component should be thoroughly and quantitatively discussed. In the current draft, this information is often not discussed until the environmental impacts section. In addition, in the proper section, the environmental impacts of the proposed mining should be thoroughly and quantitatively evaluated.

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Lastly, the proposed monitoring program is a key component of this project proposal. However, very little specific information is available regarding the specifics of the plan. In order to evaluate its effectiveness, the following information is required:

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1. the precise location of the bar transects;
- 2.) the specific timing of the bar and longitudinal surveys;
3. the specific timing and scale of aerial photography; and
4. the benchmark to be used.

It has been established that portions of the Eel River have aggraded over the past decades, partially as a result of the 1964 flood. However, prolonged gravel extraction in excess of replenishment rates in conjunction with several years of poor flows has contributed to the reversal of this trend. In order to avoid adverse impacts resulting from uncontrolled degradation of the stream channel, data describing existing and predicted channel elevations should be provided, and a goal for managing the bed elevation should be established.

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Specific Comments:

- page i On page i, the document states that 200 gallons of water per hour would be required for operation of the crushing plants. This figure represents 0.05 per cent of the river summer low flow volume. However, on page 10, the document states that the 200 gallons per minute would be required. This represents three per cent of the summer low flow. This contradiction should be corrected. 7
- page ii Historic removal is estimated as 700,000 to 1,000,000 cubic yards. Is this figure a per year rate or a cumulative quantity? 8
- page iii The document states that the noise generated by gravel processing "would not enhance" the adjacent riparian habitat. "Would not enhance" should be changed to "would adversely impact." 9
- page vi The second paragraph should be changed to read as follows:
 "The proposed placement of a gravel processing plant in the heart of the 600-acre riparian forest on the west side of the river related to Site #6 would be a significant, adverse impact." 10
- page vi Here and throughout the DEIR, the County states that a monitoring plan would be implemented to reduce the significance of adverse impacts incurred by the proposed level of mining. However, a monitoring plan, in and of itself, would not alleviate the magnitude of adverse impacts to the river channel. It would serve only to identify these impacts. In order to reduce the magnitude of the impacts, a remedial action plan would be needed. 11
- page vi The DEIR states that the decreased extraction rate alternative is not recommended. The reasons for dismissing this alternative should be fully discussed. 12
- page vii The document states that the proposed monitoring program would mitigate the potential scour impacts identified in the EIR. This plan may identify and quantify these impacts; however, it would not mitigate them. Measures for rectifying the impact once it is identified by the monitoring program should be included in the plan. 13

- page 25 The DEIR cites Dames and Moore's calculations of potential bed degradation. Under what extraction scenario do these calculations apply? | 14
- page 26 This table needs a datum. | 15
- page 27 The DEIR utilizes the Department of Agriculture's sediment yield estimate 19,942,412 cubic yards per year in the Eel River. Assuming that one per cent of the suspended sediment is bedload, the document states that the calculated bedload would be 1,994,241 cubic yards per year. This appears to be an error in calculation. The actual figure should be 199,424 cubic yards ($19,942,412 \times 0.01 = 199,424$). Furthermore, in a 1979 study, the Corps of Engineers estimated the suspended sediment load of the Eel River to be 16,205,932 cubic yards at most (Smith and Patrick, 1979). Using the one per cent criterion, this figure implies a bedload of 162,059 cubic yards. | 16
- page 27 The description of the river bed and low flow channel should include figures illustrating channel morphology throughout the project area. | 17
- page 28 The description of riparian habitat should include a map of vegetation in the project area. In addition, this description should fully discuss the composition and quality of this habitat and its regional context. | 18
- page 29 The document uses varying names for the species of fish. It should be revised to use one name for each species consistently. | 19
- page 33 Change "title prism" to "tidal prism". | 20
- page 33 The discussion of the existing habitat available for birds, mammals, reptiles, and amphibians should be expanded. In addition, the list of bird, reptile, and amphibian species occurring in the study area should be expanded. | 21

- page 34 The document states that no rare, threatened, or endangered species occur in the project area and then contradicts itself by stating that the bald eagle (Haliaeetus leucocephalus) and the peregrine falcon (Falco peregrinus anatum) both occur in the project area. This point should be revised. In addition, the environmental setting section should discuss the occurrence of all candidate and listed species in the project area. A list of these species was provided to the County by the the U.S. Fish and Wildlife Service by letter of January 24, 1992. The potential impacts to each of these species should be discussed in the environmental impacts section. 22
- page 35 The section discussing air quality should include a quantitative discussion of existing air quality conditions relative to state and national standards. 24
- page 36 In the discussion of flooding, the DEIR should include a evaluation of the magnitude and impacts of these floods. 25
- page 37 What are the dates of the aerial photographs taken before and after the construction of the Highways 101 and 211 bridges? 26
- page 37 The DEIR concludes that the channel elevation of the Eel River has not changed "very much" over the last 80 years. This conclusion should be quantified. In addition, the discussion of conclusion that "some change" has occurred in the bed elevation of the Van Duzen River should be expanded. It is not clear whether the figures represent channel migration or bed elevation changes. In addition, paragraph seven states that the bed at the south pier of the Route 101 bridge over the Van Duzen River degraded by 20 feet between 1924 and 1991. Paragraph eight states that this same site degraded 4.5 feet between 1925 and 1991. This contradiction should be clarified. 27
- page 47 The DEIR states that "[i]t is unknown at this time what the impacts of trenching will be as there was no analysis or CEQA documentation prior to the initiation of trenching." However, information is available from trenching on the Mad River and by analyzing the impacts of trenching on the Eel River thus far. These impacts may include, at a minimum, channel realignment, fish entrapment and mortality, channel degradation, water quality degradation, lowering of the ground water table, degradation of riparian vegetation, and altered patterns of erosion and sedimentation. These points should be fully discussed in the EIR. 28

- page 47 The document states that trenching can "create a new cheaper, more efficient channel." What is meant by this statement? | 29
- page 51 The document refers to a "minor lowering" of the river beds over they past 17 years. This degradation should be quantified. | 30
- page 53 The document concludes that the proposed mining would result in an unknown amount of channel degradation in the Eel and Van Duzen Rivers and that this degradation would, in turn, impact bridge piers and levees. The discussion of channel degradation should also consider the impacts of channel degradation to habitat for fish and wildlife, riparian vegetation, and ground water. The nature and magnitude of these impacts should be established. | 31
- page 54 Table 3.5 needs a datum. | 32
- page 55 Under what flow conditions does this cross section apply? | 33
- page 58 The DEIR states that past gravel mining has not significantly changed channel morphology through the project area. This statement should be quantified and the area of study should be clearly identified. | 34
- page 58 The proposed fisheries habitat monitoring program should be explained in detail. | 35
- page 60 The document states that an increase in the tidal prism of the estuary would enhance fisheries habitat. This statement should be substantiated. | 36
- pages 60 thru 63 The evaluation of impacts to wildlife should be revised to include a thorough discussion of all impacts to fish and wildlife potentially incurred by the proposed project. These impacts should be quantified to the extent possible. Points that should be evaluated include, at a minimum, the displacement of riparian habitat, channel degradation, alteration of channel morphology and stream flow characteristics, degradation of water and air quality, fish entrapment and mortality, increased noise levels, and ground water impacts. | 37



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Fish and Wildlife Enhancement
Sacramento Field Office
2800 Cottage Way, Room E-1803
Sacramento, California 95825-1846

In Reply Refer To:
PPN 2059

April 15, 1992

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TIC 5/22/92	

Mr. Donald Tuttle
Humboldt County Public Works Department
Natural Resources Division
1106 Second Street
Eureka, CA 95501-4484

Subject: Draft Program Environmental Impact Report on Gravel Removal Operations, Lower Eel and Van Duzen Rivers, Humboldt County, California

Dear Mr. Tuttle:

The Fish and Wildlife Service (Service) has reviewed a Draft Program Environmental Impact Report (DEIR) describing and analyzing potential environmental effects caused by eleven gravel removal operations along the Lower Eel and Van Duzen Rivers. The eleven operations propose to cumulatively remove 1.2 million cubic yards of gravel annually. The following comments are provided to voice the Service's general concerns about Eel River gravel extraction operations and to assist you in evaluating the proposed projects' impacts on fish, wildlife, and their habitats. These comments are not intended to take the place of any formal comments that may be required under the provisions of the Fish and Wildlife Coordination Act or the Endangered Species Act (ESA), as amended.

The Service commends the County's efforts to develop a comprehensive environmental impact analysis that seeks to identify and minimize potential adverse effects from gravel extraction operations within portions of the Eel River watershed. However, the Service believes that the County falls short in not including the multitude of other gravel removal operations within the drainage and addressing their individual and cumulative deleterious effects on the natural riverine environment. We strongly encourage the County to further define the scope of a revised DEIR to encompass other on-going and any anticipated, within the reasonably foreseeable future, extraction operations that may cause cumulative environmental impacts within the watershed, including the estuary and nearby coastal areas. Additionally, the "No Project Alternative" should be redefined to be an analysis of environmental impacts associated with the full or partial cessation of existing gravel removal operations.

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Every effort should be made by the County to achieve and maintain existing levels of native fishes in the Eel River drainage. The Eel River and its tributaries yield one of the largest populations of coho (*Oncorhynchus kisutch*) and chinook (*Oncorhynchus tshawytscha*) salmon and steelhead (*Oncorhynchus mykiss*) in the state. Historically, the Eel River supported

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different runs of chinook salmon (now only fall-run) and sizable populations of chum (*Oncorhynchus keta*) and pink (*Oncorhynchus gorbuscha*) salmon, which are now non-existent in the Eel River basin. The remaining native fish populations in the Eel River basin face numerous threats to their viability. Habitat destruction, competition with non-native species such as the Sacramento squawfish (*Ptychocheilus grandis*), and migration barriers such as summer dams cumulatively stress the native fisheries. In particular, the multitude of proposed and on-going gravel mining operations in the Eel River basin would affect salmonids (salmon and steelhead).

In a letter dated January 24, 1992, the Service provided the County a list of federal endangered and threatened species and candidate species that may occur within the project area and recommended that surveys be made to assist in evaluating project impacts. However, the DEIR does not discuss whether surveys have been made to determine the presence of any of the candidate species within the project area and immediate vicinity and, if present, any adverse effects that the proposed projects may cause. One of the benefits of considering candidate species early in the planning process is that by exploring alternatives, it may be possible to avoid conflicts that could develop, should a candidate species become listed before or while the projects are operational. In addition, in instances where the Service addresses proposed projects under its Fish and Wildlife Coordination Act authority, such as the issuance of a Section 404 or Section 10 permit by the U.S. Army Corps of Engineers (Corps), we must also analyze the impacts on candidate species and make recommendations to mitigate any adverse effects.

The green sturgeon, *Acipenser medirostris*, and longfin smelt, *Spirinchus thaleichthys*, may be affected by multiple gravel removal operations. Both currently-used gravel removal methods, trenching and skimming, and the timing of operations should be analyzed for potential impacts, within the project area and estuary, on these species. There is concern that the upstream removal of sand and gravel will deplete the amount of material recruited to the beaches at the mouth of the Eel River. Reduction of sand spits and dunes could reduce the amount of nesting habitat available to the western snowy plover, *Charadrius alexandrinus nivosa*. Candidate amphibian species possibly occurring in the project area include the northwestern pond turtle, (*Clemmys marmorata marmorata*), and the California red-legged frog (*Rana aurora draytonii*). The Service has been petitioned to list the turtle and frog as endangered or threatened species under the ESA. We are currently reviewing the status of these animals and anticipate issuing a 90-day finding in the near future. The presence and potential adverse effects on the white-footed vole, (*Arborimus albipes*); Pacific fisher, (*Martes pennanti pacifica*); Pacific western big-eared bat, (*Plecotus townsendii townsendii*); and California wolverine, (*Gulo gulo luteus*), also remain to be ascertained and discussed. We still recommend that appropriately timed surveys for the identified candidate species be undertaken by qualified biologists. Survey results should be published in a revised environmental document to provide a realistic evaluation of project impacts.

The DEIR does not address the possibility that nest sites or activity centers of the threatened northern spotted owl (*Strix occidentalis caurina*) may occur in forested habitat near the proposed operations on the Van Duzen River. Consistent high noise levels during the breeding season (March through July) within 1/4 mile of spotted owl nest sites or activity centers may impair

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breeding activities of that species. The applicant should 1) contact Mr. Gordon Gould of the California Department of Fish and Game at 916-654-4264 to determine whether there are known spotted owl sites near the proposed operations, and 2) survey suitable owl habitat within 1/4 mile of the proposed operations in a manner consistent with the Service-approved spotted owl survey protocol of March, 1992 (enclosed). If owl sites are located within 1/4 mile of the proposed operation, the applicant should contact the Service to determine measures to avoid prohibited take, or seek authorization for incidental take. Such authorization requires development of a conservation plan with measures to minimize and mitigate take, a process that normally takes several months.

We would object to any further fragmentation and loss of riparian habitat along the Eel River or its tributaries associated with gravel removal operations, such as that discussed at site #6 or the construction of additional river access roads that did not provide suitable mitigation. Generally, riparian areas should be avoided. If unavoidable losses are incurred, we recommend that lost habitat be replaced with in-kind habitat with no net loss of habitat value or acreage. A mitigation/monitoring plan would need to be submitted before project impacts occurred, in order that the potential success of proposed mitigation measures could be assessed.

The Service disagrees with the assumption that eleven identified avian species have co-existed, apparently with minimal disturbance, with gravel mining operations during the past 30 years. No historical data is presented to show population trends during the time period and whether or not alterations in population levels and diversity have resulted from increased gravel mining operations. The monitoring program should be expanded to include methods for monitoring and evaluating avian species populations that could be negatively affected by continued gravel removal activities. Additionally, monitoring procedures for assessing the in-stream aquatic invertebrate community and other wildlife utilization patterns in adjacent riparian habitats should be included in the final monitoring plan.

Based upon these considerations, we recommend that the County address our concerns and submit a revised Draft Environmental Impact Report for our review before preparing a final environmental document. If you have any questions about these comments, please call Jim Browning or Darren Fong of my staff at (916) 978-4613.

Sincerely,

Doug Weirich

for Wayne S. White
Field Supervisor

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Enclosure



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE

Southwest Region, HCB
777 Sonoma Avenue, Room 325
Santa Rosa, California 95404

MAR 30 1992

March 25, 1992

F/SW02:CPM

Donald C. Tuttle
Environmental Services Manager
Humboldt County Dept. of Public Works
1106 Second Street
Eureka, California 95501-0579

Dear Mr. Tuttle:

We reviewed the Draft Program Environmental Impact Report (DEIR) on Gravel Removal from the Lower Eel River. The DEIR describes the proposed removal of 1,220,000 cubic yards of gravel per year from 11 extraction sites. Nine of these sites are on the Lower Eel River between Fernbridge and the mouth of the Van Duzen River. The other two are on the Van Duzen River near the mouth of Yager Creek.

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We welcome Humboldt County's efforts to begin managing gravel extraction with a comprehensive, program approach. A Program EIR is the logical first step. Unfortunately, we believe that the DEIR is inadequate. It does not provide enough information to allow a scientific assessment of the potential impacts of gravel extraction alternatives on anadromous fisheries and their habitat. It does not provide a vision of how the Lower Eel could be restored by carefully directing gravel extraction efforts according to a Lower Eel restoration plan.

The DEIR should provide more information on the history and impacts of the two gravel mining projects that occur near Garberville. The current proposal by the Satterlees to mine 200,000 cubic yards annually from the Eel River near Alderpoint should also be addressed.

The DEIR states that the lower Eel is mainly used as a migration corridor for anadromous fish. This may be the case given the current conditions, but it is possible that rearing habitat was historically available in this reach of the river. Widening and shallowing of the river in this area has probably resulted in the loss of cooler pool, riffle, and run areas shaded by riparian vegetation. Improperly managed gravel extraction activities may prevent the restoration of the river to historic conditions.

The discussion of bedload transport rates reveals the wide range of estimates that are found in the literature. In 1982 the Dept. of Water Resources developed a bedload transport estimate of 107 kcy (thousand cubic yards) for the Middle Fork of the Eel. Hawley and Jones in 1969 estimated a bedload transport rate of 400 kcy at Scotia, most of which is sand according to Ritter. The DEIR cites a June 1970 Sediment Yield and Land Treatment



report which estimated a bedload transport rate of 124 kcy. This report estimated bedload to be 1% of Eel River total sediment transport, but bedload to be 15% of total Van Duzen River sediment transport, and thus estimated a 234 kcy bedload transport total for the combined Van Duzen and Eel flow below the mouth of the Van Duzen. The USDA report of 1970 developed a bedload transport estimate of 2.0 million cubic yards. Arcata Readimix's 1992 use permit application includes bedload transport estimates of 300 kcy to 800 kcy.

Thus, bedload transport estimates range from about 107 kcy to about 2.0 million cubic yards. We believe that the main reason for the large range of estimates is due to the assumptions that were made in the absence of direct measurements. Bedload is assumed to be anywhere from 1 to 15% of total sediment load. Bedload has not been directly measured. Also, some have estimated the 1964 flood to be an eighty-year flood event, although it is possible that it could have been a hundred-year or even two-hundred year flood event.

Because knowledge of suspended sediment and bedload transport rates are so important in understanding the geofluvial morphology and dynamics of the Lower Eel, we recommend that the County include a program to develop reliable estimates of these rates as part of its gravel monitoring program. This might be done on a cooperative basis with the U.S. Geological Survey, and would probably require new measurements and modelling efforts.

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It is unclear whether the proposed 1.22 million cubic yards of annual gravel extraction will cause net degradation of the stream and fisheries habitat. First, we do not know the average bedload transport rates. Second, we do not know how the County will manage extraction limits during years when little or no gravel replenishment occurs (such as over the last five years). Also, it is unclear to what extent the trenching or skimming methods will be permitted for gravel extraction. Trenching has the potential to cause major headcutting and shifting of the river thalweg, while skimming typically increases the river's width/depth ratio and wetted area, reducing sediment transport ability and increasing bank erosion.

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A good monitoring program would allow these problems to be documented, but in itself will not prevent these impacts from occurring. The County should annually set extraction limits and methods both on a project-by-project basis and on an overall basis. The limits should be based on two considerations- gravel replenishment during the rainy season and achievement of restoration goals. Restoration goals should be developed as part of a comprehensive restoration plan, which we describe below.

We believe that the County should develop a restoration plan for the Lower Eel. Based on the historical record, this reach of the

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river ran narrower, deeper, and cooler. There was more riparian vegetation on the banks of the river, and the bank-full channel had more meanders. Given the human-induced and natural changes that have occurred over the years, it is probable that this reach of the river is out of balance. The restoration plan would be developed after careful analysis of historic aerial photos and bridge elevations, and measurements and calculations of flow velocity, width, depth, discharge, sediment transport rates, slope, sinuosity, bed roughness, and other factors. The plan would provide detailed design and phased construction plans for a stable, enhanced river morphology. Such a plan would probably include riparian vegetation planting, meander restoration, and gravel removal. The gravel removal could support the needs of the gravel industry. Similar restoration planning is now underway in the lower South Fork of the Eel and Bull Creek. This plan would allow the County to manage gravel extraction in a proactive mode, rather than a reactive mode.

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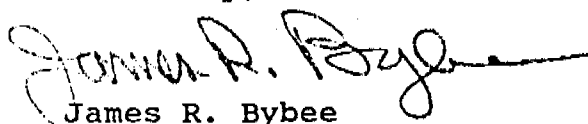
The sample monitoring program described in Appendix A of the DEIR should be adequate to monitor changes in the river caused by gravel extraction. If it is funded by taxing gravel operators on a per ton basis, some means of accurately and independently measuring extraction amounts should be developed. Otherwise, the operators will have economic incentives to underreport gravel extraction volumes. In addition, we recommend that the county add the geofluvial analysis and restoration plan elements described above.

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The DEIR outlines all of the agencies and permits that are required for gravel extraction in the Lower Eel. However, we emphasize the fact that the County is lead agency for all mining within the county, and therefore should not unduly rely on other agencies to manage and protect the Eel River.

If you have any questions regarding these comments please contact Chris Mobley of my staff at the above address; telephone (707) 578-7513. Thank you.

Sincerely,



James R. Bybee
Environmental Coordinator
Northern Area

cc: Larry Preston, DFG
Mike Long, USFWS
James Pompy, DMG

Letter to Mr. Tuttle
April 10, 1992
Page 2

Section 30608 of the Coastal Act states that no person who has obtained a vested right in a development prior to January 1, 1973 need obtain a coastal development permit. Thus, it is possible that some of the older gravel mining operations along the lower Eel River may not need a coastal development permit. However, to establish a vested right, among other things, a project proponent must demonstrate that he or she had obtained all necessary local, state, and federal discretionary permits to undertake the development prior to January 1, 1973. In addition, the project proponent must demonstrate that the project has not been expanded or significantly changed in any way since then. 59

In localities such as Humboldt County where the local government has a local coastal program (LCP) that has been certified by the Commission, the local government issues all of the Coastal Development Permits for development within the coastal zone except for any development on tidelands, submerged lands, or on public trust lands, whether filled or unfilled. The Commission retains the authority for issuing permits on these lands. The Commission has prepared maps for all of the certified areas that show the boundary between the Coastal Development Permit Jurisdictions of the County and the Commission. These maps are based in part, on information about public trust lands obtained from the State Lands Commission. A copy of the map for the project area is enclosed. The map shows that the Commission's coastal development jurisdiction covers a relatively broad area along the river. As a result, some of the gravel mining operations may be entirely within the Commission's coastal development permit and not within the County's area. 59

If you have any questions about the above information, please don't hesitate to call. Once again, thanks for the opportunity to comment.

Sincerely,


ROBERT S. MERRILL
Coastal Analyst

Enclosure

cc: Commissioner Bonnie Neely

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STATE OF CALIFORNIA

REGIONAL WATER QUALITY CONTROL BOARD
NORTH COAST REGION

1440 GUERNEVILLE ROAD
SANTA ROSA, CALIFORNIA 95403
PHONE (707)576-2220
ATSS 8-590-2220
FAX (707)523-0135

APR 2 1992

DATE: 4-2-92

TO: DON TUTTLE

FROM: TOM DUNBAR

SUBJECT: EEL RIVER GRAVEL EIR

NUMBER OF PAGES: 4
(INCLUDING THIS COVER PAGE)

DRAFT COMMENTS.
COMMENT FROM YOU
BEFORE WE FINALIZE?

BRVHMCO.DOC ON JRH MINI DOC DISK

SUGGESTED TEXT TO SUPERCEDE THAT CONTAINED PP 45-47 OF DRAFT PROGRAM
EIR-GRAVEL REMOVAL LOWER EEL RIVER -- SCH #92013033

Some activities associated with the gravel removal projects described in this EIR will require permits to be issued by the Corps of Engineers pursuant to Clean Water Act Section 404 and/or Rivers and Harbors Act Section 10. (See page 49...or whatever it becomes). The activities within Corps jurisdiction include any filling within waterbodies or wetlands (including stockpiling, diking, channelizing, bank modifications, sorting and river crossings--see Corps letter of March 26, 1992) and dredging (including trench-type gravel extraction ??when trenching extends into the river underflow??) (??and may be interpreted to also include the "skimming"-type of gravel mining??). Before the Corps can issue its permit, the applicant must contact the Regional Water Quality Control Board, North Coast Region regarding Water Quality Certification pursuant to Section 401 of the federal Clean Water Act.

The Regional Board's procedure for response to requests for such certification are established in State law and regulations and include the following steps:

The applicant submits a Request for Certification including the following:

A letter or Form requesting certification, including a full description of the activity involved;

A completed copy of the application for the Corps permit;

Evidence of compliance with California Environmental Quality Act (CEQA) such as a Negative Declaration, reference to this EIR, or other proceeding;

A filing fee computed according to the schedule contained in Section 2200 of the California Code of Regulations, Title 23. The schedule in effect at the time of preparation of this EIR is as follows:

"Fees for fill or dredge operations shall be assessed on an annual basis for as long as the waste discharge requirement is in effect, as follows:

Fill: One acre or less, flat fee of \$1000
More than one acre, \$1000 per acre or part thereof (not to exceed the statutory maximum).

Dredge: Less than 10,000 cubic yards, flat fee of \$500
10,000 to 20,000 cubic yards, flat fee of \$2000
More than 20,000 cubic yards, \$2000 plus \$250 for each additional 5000 cubic yards or part thereof (not to exceed the statutory maximum).

(the statutory maximum at this time is \$10,000 -- would be reached at 10+ acres "fill" and/or at 180,000+ CY of "dredge"

61000
4500

160

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The Regional Board staff reviews the application to verify its completeness and whether or not Waste Discharge Requirements can be waived.

If the activity will not discharge to the river or can be conducted with minimal threat to water quality, it is within the matters covered by Regional Board Resolution No. 87-113 -- Waiving Waste Discharge Requirements for Specific Types of Discharges -- and a waiver is issued. This action is equivalent to "401 Certification" and enables the Corps to issue its permit.

In the event that the proposed activity is beyond the scope of Resolution No. 87-113 the staff cannot issue a waiver but instead must process the matter for regulation under Waste Discharge Requirements which are adopted by the Board -- an action which is also equivalent to "401 Certification".

Should the Board find that the activity will cause uncontrollable water quality impacts, it would recommend that the State Water Resources Control Board deny certification and the Corps could not issue a permit.

Applicants for Corps permits should also be aware of Clean Water Act Section 404 (b)(1) (regarding the specification of disposal sites for dredged or fill material) and its implementation by the Corps and EPA. The implementation guidelines are published as Part 230 of Title 40-Code of Federal Regulations. In general, Section 404(b)(1) and the guidelines establish very strict controls over fill-placement activities which may have adverse effects to municipal water supplies, wetlands, fishery habitats or recreational areas.

In addition to the regulations dealing with dredging and filling activities which attend gravel mining and processing, there are provisions of the federal Clean Water Act and State Water Code which require regulation of wastewater discharges from gravel processing, concrete/pavement manufacturing and stormwater discharges associated with industrial activities such as gravel mining and concrete/paving manufacturing. Finally, there are regulatory provisions governing storage and spill-prevention/detection systems for petroleum products (fuels and asphalt). The Regional Board's implementation of these regulatory measures is outlined in the following paragraphs.

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Wastewaters from industrial processes. The Board has, for many years, prohibited all discharges of waste to the Eel River and its tributaries during the May 15-September 30 low-flow period. During the October 1-May 14 period, discharges are allowed only if there are 100-to-1 dilution flows and the discharge causes no degradation of the River's natural background conditions. The result of these restrictions on aggregate-related industries has been development of practices which comply with the Board's prohibitions. The activities described in this EIR are consistent with those practices. The Regional Board, in 1987,

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adopted Resolution No. 87-113 -- Waiving Waste Discharge Requirements for Specific Types of Discharges and has, since that time, found that the types of activities described in this EIR do qualify for waiver. The scope of operations described in this EIR is not expanded beyond the levels actually accomplished in the past, thus it is reasonable to expect that Resolution No. 87-113 will continue to be applicable.

Stormwater Discharges Associated with Aggregate Mining and Manufacturing of Concrete/Paving Products. In late 1991, the Regional Board was delegated responsibility to implement a Statewide General Permit which may be used by owner/operators of sites which have stormwater discharges which must be permitted under the National Pollutant Discharge Elimination System (NPDES) Program. The operations described in this EIR, if they have a discharge of stormwater via a conveyance to the Eel River or its tributaries from any area of industrial activity, may obtain NPDES permit coverage (ie permission to discharge) by following the steps set forth in the Statewide General Permit. The first step is to obtain a copy of the General Permit, Notice of Intent Form and Instructions from the Regional Board office. The second step, if there will be a stormwater discharge associated with the activity, is to read and understand the General Permit and follow its basic directions: fill out and submit the Notice of Intent along with the \$500 filing fee to the State Board office in Sacramento. The terms of the Permit point to the next steps -- eliminate any possibility of non-stormwater discharge, prepare and implement a Stormwater Pollution Prevention Plan and prepare and implement a Stormwater Discharge Monitoring Program.

The Regional Board is responsible for verifying compliance with the General Permit and may use any of its enforcement authorities to obtain compliance. Areas of concern regarding the activities described in this EIR include:

(quote from item 5 --pages 6 & 7 of the permit)

Petroleum Storage Regulation. There are differing levels of regulation regarding handling and storage of petroleum products which are especially important at the river-side facilities described in this EIR. Any underground tanks must be operated in accordance with County of Humboldt administration of State regulations. Any above-ground tanks above the jurisdictional threshold must comply with State registration and monitoring regulations. Any tanks exceeding 700-gallon capacity must be covered by a ^{SPILL CONTROL} Spill Control, Countermeasure // and Contingency Plan (SPCC Plan) in accordance with federal regulations. The objective of all of these regulations is simple -- to avoid spillage of fuels and asphalt products where they may immediately affect the sensitive uses of the Eel River or its tributaries. Non-compliance with any of these regulations which causes or threatens to cause pollution of the river will result in enforcement action by the Regional Board.

In summary, the Regional Board is involved in three distinct regulatory roles which may impact gravel operators. Compliance with the discharge prohibitions, stormwater General Permit and petroleum controls will effectively minimize all water quality effects of the activities described by this EIR.

[continue with text at page 47: A Streambed]

