

SUPPLEMENTAL INFORMATION #2

For Planning Commission Agenda of:
September 7, 2017

<input checked="" type="checkbox"/>	Consent Agenda Item	}	
<input type="checkbox"/>	Continued Hearing Item	}	
<input type="checkbox"/>	Public Hearing Item	}	No. <u>2</u>
<input type="checkbox"/>	Department Report	}	
<input type="checkbox"/>	Old Business	}	

Re: Sundberg Surface Mining Conditional Use Permit & Reclamation Plan

Case Number CUP-16-204/SMP-16-003/RP-16-004; Assessor's Parcel Number (APN) 504-131-002; Glendale Area

Attached for the Planning Commission's record and review is (are) the following supplementary information item(s):

1. Letter from Humboldt Bay Municipal Water District dated September 6, 2017 expressing concerns with respect to the proposed project.
2. Planning Division response to the concerns expressed by the Humboldt Bay Municipal Water District in their letter dated September 6, 2017.



HUMBOLDT BAY MUNICIPAL WATER DISTRICT

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JOHN FRIEDENBACH

September 6, 2017

Humboldt County Planning Commission
3015 H Street
Eureka, CA 95501

RE: September 7, 2017 Agenda Item 3

Dear Commissioners,

Humboldt Bay Municipal Water District (District) has received and reviewed the Public Notice of Hearing issued by the Humboldt County Planning Commission for Thursday, September 7, 2017, regarding Garth Sundberg's Surface Mining Conditional Use Permit & Reclamation Plan (app #11271, case #'s CUP-16-204/SMP-16-003/RP-16-004). This Conditional Use Permit is for up to 6,300 cubic yards of aggregate (sand & gravel) from adjacent gravel bars (Miller Almquist Bar and Simpson-Glendale Bar).

Although it is understood this project will remain consistent with the previous terms and conditions found within the previous permits, the District has two concerns for your consideration.

First, due to excessive gravel mining in the past, the District has incurred "very significant impacts and therefore costs to our infrastructure."¹ In the 1960's and 1970's, the District purchased substantial acreage upstream of our Collector #2 and downstream of our Collector #1 in attempts to minimize the direct impact on the infrastructure and the ability of the District to provide water to residents and businesses of Humboldt County it was experiencing from excessive local gravel mining. During this same timeframe, due to the damage caused by upstream gravel mining, the District, at considerable expense to the local rate payers, constructed rock dikes and wing jetties in several locations in an attempt to prevent the continued degradation of the river bed and control river bank erosions. In the late 1990's, based on the impact of additional gravel mining, the District met with the Department of Fish and Game (now Department of Fish and Wildlife) to develop a structure that would not interfere with migrating fish and would help manage the grade line issues we were experiencing with our Pump Station #6, caused by continuing bed degradation in the Mad River.² In 2014, then General Manager, Carol Rische worked directly with several gravel mining operators, their attorney, and the Board of Supervisors to reword the verbiage in the Draft Environmental Impact Report (Draft EIR), to terms that were acceptable to all parties involved (MR-G2).

¹ General Manager Carol Rische, Mad River Union, 12/31/2014

² "Amended Initial Study for HBMWD Rock DiKE Project" July 1991, for HBMWD, by Winzler & Kelly, Consulting Engineers

In addition, the County Planning Department proposed a new additional policy statement as well (MR-P13).

"...using extraction methods and rates that are consistent with state and federal endangered species regulations and will not adversely impact public infrastructure..."³

"Prescribed sand and gravel extraction rates shall not cause channel bed degradation to levels that adversely impact public infrastructure or the source-water classification of the drinking water for the regional water system."⁴

The District continues to support the verbiage in both of these sections of the Draft EIR. The District requests assurances that every precaution and effort will be made to ensure the public infrastructure which supplies drinking water to over 88,000 Humboldt County residents and businesses will be safeguarded from the issues and expenses that excessive gravel mining in the Mad River has created in the past.

The second concern of the District is the recent classification upgrade (June 21, 2017) of the Foothill Yellow-Legged Frog from "Species of Special Concern" (as listed in the Draft Supplemental Programmatic Environment Impact Report for Gravel Extraction on the Lower Mad River as of April 2014⁵) to "candidacy" for endangered and threatened species⁶ by the California Fish and Game Commission (CFGC). This upgrade to candidacy affords the species all the protections a fully listed endangered/threatened species receives during the following 12-months while CDFW conducts a status review and informs CFGC whether to confirm the species as endangered or threatened⁷. Based on the candidacy of the Foothill Yellow-Legged Frog, the District has been held to strict requirements by the CDFW regarding any of its activity within and around the river. The District is concerned that the outlined extraction timeframe (June 1st – October 1st) coincides (Mid Summer to Late Summer/Early Fall) with the metamorphosis of the Foothill Yellow-Legged Frog from tadpole stage to juvenile adults⁸. The California Endangered Species Act (CESA) "prohibits the take of any species of wildlife designated by the CFGC as endangered, threatened, or candidate species."⁹ The District is strongly opposed to any activity that would harm a threatened and potentially endangered species residing within our watershed area. Consequently, the proposed gravel extraction permit may require an incidental take permit from the CDFW.

In closing, regardless of the issues that gravel mining has caused in the past, the District has been, and continues to be unopposed to gravel mining in the Mad River as long as it is appropriately regulated and monitored. The District will, however, continue to maintain an acute interest in ensuring that a sustainable gravel extraction rate is maintained that does not impact infrastructure required to supply water to residents and businesses in Humboldt County.

Thank you for considering our concerns.

Respectfully,



John Friedenbach,
General Manager

³ Board of Supervisors Draft EIR, 10.4.3, MR-G2, In-stream Sand and Gravel Extraction

⁴ Board of Supervisors Draft EIR, 10.4.3, MR-P13, Protection of In-stream Water Collection and Transmission Facilities on the Mad River

⁵ Draft Supplemental Programmatic Environmental Impact Report for Gravel Extraction of the Lower Mad River, April 2014, prepared for Humboldt County Planning & Building Dept. by H. T. Harvey & Assoc., State Clearinghouse #1992083049, Hum Co. App #7077

⁶ Information and "State & Federally Listed Endangered & Threatened Animals of California" July 2017

⁷ "California Fish And Game Commission – Notice of Findings", July 27, 2017

⁸ See Footnote 3

⁹ www.wildlife.ca.gov/Conservation/CESA

Planning Division response to the concerns expressed by the
Humboldt Bay Municipal Water District in their letter dated September 6, 2017

Issue 1: District comments reference mitigation from the Mad River Supplemental Program Environmental Impact Statement (MR-P13) "...using extraction methods and rates that are consistent with state and federal endangered species regulations and will not adversely impact public infrastructure..." and "Prescribed sand and gravel extraction rates shall not cause channel bed degradation to levels that adversely impact public infrastructure or the source-water classification of the drinking water for the regional water system."

Response: Monitoring information indicates that extraction at average historical levels is appropriate at this site and that such operations will not cause immediate nor cumulative significant adverse environmental impacts. This project will remain consistent with the previous terms and conditions found within the previous permits. This project is subject to conditions and oversight found within the County of Humboldt's Interim Adaptive Management plan as described in Chapter II of the Supplemental Programmatic Environmental Impact Report. The permitted volume is consistent with the Supplemental Programmatic Environmental Impact Report allocation proposed for allocating maximum extraction volume by mean annual recruitment (MAR). (Table 2-4 SPEIR) for the Simpson-Glendale Bar. In any given year, project extraction volumes, locations, and methods will be submitted by the applicant for approval by local, state, and federal agencies, including the County of Humboldt, CHERT, Dept. of Fish and Wildlife, and Army Corps of Engineers. This interagency process is the method by which the mitigation measures noted by the District are implemented.

Issue 2: Based on the candidacy of the Foothill Yellow-Legged Frog, the District has been held to strict requirements by the CDFW regarding any activity within and around the river...The proposed gravel extraction permit may require an incidental take permit from the CDFW.

Response: A check of the California Natural Diversity Data Base (CNDDB) did not show the Foothill Yellow-Legged Frog as present on the proposed extraction site. The proposed Mitigated Negative Declaration was circulated to resources agencies, including CDFW, for a 30 day comment period, and no comments were received from CDFW. Additionally, as noted above, in any given year, project extraction volumes, locations, and methods will be submitted by the applicant for approval by local, state, and federal agencies, including the County of Humboldt, CHERT, Dept. of Fish and Wildlife, and Army Corps of Engineers. If CDFW has an issue with the window of extraction proposed for that year, they may condition the required 1600 permit accordingly or require an incidental take permit.

SUPPLEMENTAL INFORMATION #1

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Attached for the Planning Commission's record and review is (are) the following supplementary information item(s):

1. Letter from Division of Mine Reclamation dated August 30, 2017 commenting on the Reclamation.
2. Letter from Trinity Valley Consulting Engineers dated September 5, 2017 providing responses and Reclamation Plan amendments which address comments on the Reclamation Plan by the Division of Mine Reclamation.