

April 21, 2008

**Public Notice for Water Quality Certification and/or
Waste Discharge Requirements (Dredge/Fill Projects)**

Van Duzen River Ranch - Streambank Protection Project
WDID No. 1B06078WNHU

Humboldt County

On May 24, 2006, the North Coast Regional Water Quality Control Board (Regional Water Board) received an application from Jack and Mary Noble (applicant) requesting Water Quality Certification and/or Waste Discharge Requirements (Dredge/Fill Projects) to conduct streambank protection activities on the Van Duzen River near Hydesville, Humboldt County. On September 28, 2006, the Regional Water Board issued a Clean Water Act Section 401 Water Quality Certification for this project. Several parties filed petitions for reconsideration, and on April 18, 2007, the State Water Resources Control Board revoked and remanded the Regional Water Board's Water Quality Certification for this project. (WQO 2007-0002.) The State Water Board directed the Regional Water Board to obtain relevant environmental documents and make its own findings regarding the adequacy of those documents as a responsible agency. Regional Water Board has received and reviewed available environmental documents and is reposting this project for public comment at this time.

The applicant has installed hard rock points along the banks of the Van Duzen River for several decades to address ongoing streambank erosion and the loss of productive ranch land adjacent to the river. Hard point installation is also used in part to mitigate stream bank loss from the applicant's gravel extraction activities which are separately covered under the Regional Water Board's General Waste Discharge Requirements (WDR) for Sand and Gravel Extraction activities. Because of the variable nature of the hard point project from year to year, Regional Water Board staff believe that it is appropriate to review and permit this project separately from the gravel mining project. In 2006, Regional Water Board staff advised the applicant of the requirement to obtain Water Quality Certification prior to doing more streambank stabilization work. The applicant is proposing to maintain and rebuild existing hard points that were installed over the past several years and to continue installing additional hard points along the riverbanks.

The proposed project will cause disturbances to waters of the United States associated with the Van Duzen River in the Hydesville Hydrologic Subarea No. 111.21. The proposed project is located on portions of the applicant's Van Duzen River Ranch property that straddles a three-mile stretch of the Van Duzen River from approximately one and one-half miles upstream to one and one-half miles downstream of the confluence of Yager Creek. The primary purpose of the proposed project is to stabilize areas of eroding streambank in order to avoid significant streambank failures and the loss of the applicant's productive agricultural land.

Previously installed hard points permanently impact approximately 0.009 acres of waters of the United States. The applicant has requested authorization to install a

minimum of thirty hard points with a maximum permanent impact to waters of the United States of 0.7 acre. The proposed hard point installation and maintenance activities are scheduled to begin no sooner than August 15th each year when flows in the river are low and to prevent direct impacts to salmonids. Compensatory mitigation is not required for this project. Noncompensatory mitigation measures for this project include future plantings of riparian vegetation and Best Management Practices for turbidity control. Heavy equipment will be operated from the top of the bank to avoid the flowing stream.

The applicant has applied for authorization to perform the project from the United States Army Corps of Engineer, pursuant to Clean Water Act, Section 404. The applicant has obtained a Lake or Streambed Alteration Agreement (#04-0047) from the California Department of Fish and Game (CDF&G).

On September 10, 1992, Humboldt County certified a Program Environmental Impact Report (PEIR) for gravel removal from the Lower Eel River (SCH #1992013033). That document “describes and analyzes the potential environmental effects resulting from 13 gravel removal operations located close to one another in the Lower Eel River watershed,” including gravel mining on the property owned by the applicant, and “provides an overview of the cumulative effects of removal of gravel from the bed of the Eel River near Fortuna, California.” Subsequently, the County Planning Commission certified a Supplemental EIR (SEIR) assessing the environmental impacts of the applicant’s gravel mining activities, including the potential for streambank erosion. The County filed a Notice of Determination with the County Recorder’s office on June 4, 1998; the NOD does not specify the date upon which the Planning Commission certified the SEIR, however a subsequent NOD filed by the County September 14, 2000, for a proposed expansion, indicates that the County certified the SEIR on October 28, 1997. The SEIR identified the applicant’s hard points as a mitigation measure for streambank erosion, and found that these hard-rock non-alluvial channel boundaries “control erosion at critical sites,” and have been “especially effective in creating and protecting riparian habitat and in improving aquatic habitat.”

The SEIR is adequate for CEQA compliance and the Regional Water Board will likely require additional mitigation, monitoring and reporting specific to each year’s hard point installation activities and potential effects associated with those activities. Regional Water Board staff are proposing to regulate this project pursuant to section 401 of the Clean Water Act (33 USC §1341) and Porter-Cologne Water Quality Control Act authority. In addition, staff will consider all written comments submitted during a 21-day comment period that begins on the first date of issuance of this letter and ends at 5:00 p.m. on the last day of the comment period. If you have any questions, please contact staff member Diana Henriouille at (707) 576-2350 within 21 days of the posting of this notice.