



US Army Corps
of Engineers
Portland District

PUBLIC NOTICE

Application for Permit

Issue Date: July 22, 2016

Expiration Date: August 22, 2016

US Army Corps of Engineers No: NWP-1997-200/4

Oregon Department of State Lands No: N/A

30-Day Notice

Interested parties are hereby notified the U.S. Army Corps of Engineers, Portland District (Corps) has received an application for a Department of the Army permit for certain work in waters of the United States, as described below and shown on the attached plans. The Corps is soliciting comments on the proposed work.

Applicant: Mr. Doug Robbins
Curry County Road Department
28245 Hunter Creek Road
Gold Beach, Oregon 97444
Telephone: (541) 247-7079

Location: The project site is located on the Menasha gravel bar in Hunter Creek, mile 2.7, near Gold Beach, Curry County, Oregon. The site is in Section 18 of Township 37 South, Range 14 West. Latitude and Longitude: 42.36853 North, -124.40356 West

Waterway: Hunter Creek, mile 2.7

Project Purpose: The applicant's stated purpose is to obtain aggregate for municipal use.

Project Description: The applicant proposes to harvest aggregate from a river bar located below the ordinary high water mark of Hunter Creek. No greater than 10,000 cubic yards (cy) of aggregate would be harvested annually, with up to 50,000 cy harvested over the proposed five-year life of the permit. The applicant has stated they expect to remove approximately 3,300 to 7,500 cy of aggregate per year. The proposed removal area is approximately 450-feet long and 180-feet wide, or approximately 1.1 acres. The aggregate to be removed is expected to be a mixture of river-run gravel, cobble, and sand.

The applicant would use a rubber-tired track-mounted excavator to remove aggregate to an elevation one foot or greater above the surface of the active flowing channel at the time of work. To minimize potential project-related impacts the applicant would grade the surface of the removal area to one foot above the water surface on the downstream one-third of the removal area to a consistent slope to minimize the potential for fish stranding, would maintain an undisturbed buffer no less than 20-feet wide between the removal area and the edge of the active channel at the time of work, and would conduct all work above and outside of flowing water. The aggregate would be stockpiled at an upland area adjacent to the project location. Annual pre-removal and post-removal surveys of the bar would be conducted to verify the

location and volume of material removed. Work would be conducted during July to September and is forecasted to take less than a week to accomplish in total.

Dredged Material Testing: The proposed dredged material may be evaluated in accordance with the *Sediment Evaluation Framework for the Pacific Northwest (SEF)* to determine the suitability of the sediment for unconfined, in-water disposal. The interagency Portland Sediment Evaluation Team (PSET) implements the SEF for the Corps Portland District. The Corps, in coordination with the PSET as applicable, will determine if sediment testing is required for this project. Project sediments may require physical, chemical, and/or biological testing to support the permit application evaluation. The proposed project includes future maintenance dredging. Prior to each maintenance dredging cycle the applicant may be required to coordinate with the Corps and the PSET to determine if additional sediment testing is required.

Mitigation: The applicant proposes to avoid and minimize impacts from the project by conducting work during a low-flow time of year outside of active water flow, to stockpile harvested aggregate in upland environments, to employ a spill and pollution control plan, to maintain a buffer between the harvest area and the active stream channel, and to re-grade the gravel bar post-extraction to minimize fish stranding on the gravel bar. The applicant did not propose compensatory mitigation in the permit application. The Corps will determine the type and amount of compensatory mitigation necessary to offset environmental losses from the proposed project.

Drawings: Three (3) drawings are attached and labeled Corps No. NWP-1997-200/4. Copies of this public notice, which have been mailed or otherwise physically distributed, feature project drawings in black and white. The electronic version features those drawings in color, which we think more accurately illustrates the proposed project. To access the electronic version of this public notice, go to the Portland District website at <http://www.nwp.usace.army.mil/> and select Regulatory Branch Permit Information. At the Regulatory page select Regulatory Public Notices.

Additional Information: The applicant has mined aggregate from this location in Hunter Creek since approximately 2006. The applicant has obtained and worked under previous Department of Army (DA) authorizations to remove aggregate from this location in Hunter Creek. Previous DA permit cycles have been 5-years in length. The prospective permit cycle would be 5-years in length and subject to aggregate mining best management practices and annual reporting requirements. A previous DA permit was issued by the Corps on July 19, 2012, and expires on June 30, 2017.

Authority: The proposed project will be evaluated under the following:

Section 404, Clean Water Act (33 U.S.C. 1344), for discharge of dredged or fill material into waters of the United States.

Clean Water Act Section 404(b)(1) Guidelines: The described discharge will be evaluated for compliance with guidelines promulgated by the U.S. Environmental Protection Agency under authority of Section 404(b)(1) of the Clean Water Act. The 404(b)(1) Guidelines are the substantive criteria used in evaluating discharges of dredged or fill material into waters of the United States.

Water Quality Certification: Section 401 of the Clean Water Act (33 U.S.C. 1341) requires applicants to obtain a water quality certification for proposed discharges into waters of the United States. A permit for the described work will not be issued until certification has been issued or is waived from the certifying state. Attached is the state's notice for a water quality certification.

Coastal Zone Management: Section 307(c) of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1456(c)), requires non-Federal applicants seeking a federal license or permit to conduct any activity occurring in or affecting the coastal zone to obtain a Consistency Certification which indicates the activity conforms with the State's Coastal Zone Management Program. The applicant believes the proposed project would comply with and be conducted in a manner consistent with the Oregon Ocean and Coastal Management Program. Attached is the state's notice for a consistency determination.

Endangered Species: Section 7 of the Endangered Species Act (ESA) (16 U.S.C. 1536) requires federal agencies to consult with the National Marine Fisheries Service (NMFS) and/or U.S. Fish and Wildlife Service (USFWS) on all actions that may affect a species listed (or proposed for listing) under the ESA as threatened or endangered or that may adversely modify designated critical habitat. The Corps' preliminary review indicates the described activity may affect an endangered or threatened species or designated critical habitat. The Corps will initiate consultation under Section 7 of the ESA. The Corps will complete the required consultation prior to finalizing a permit decision.

Essential Fish Habitat: Section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) as amended (16 U.S.C. 1855), requires Federal agencies to consult with the NMFS on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH). The Corps' preliminary review indicates the described activity would adversely affect EFH at the project location or in the vicinity. The Corps will initiate consultation under Section 305(b)(2) of the MSA. The Corps will complete the required consultation prior to finalizing a permit decision.

Historic Properties/Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), requires Federal agencies to consult with the appropriate State and/or Tribal Historic Preservation Officer to take into account the effects of actions they undertake or permit on historic properties listed in or eligible for listing in the National Register of Historic Places. The Corps' preliminary review indicates to the best of our knowledge, the described activity is not located on property registered or eligible for registration in the latest published version of the National Register of Historic Places. At this time the Corps is unaware of any cultural resource surveys of the project area.

This notice has been provided to the State Historic Preservation Office (SHPO), interested Native American Indian Tribes, and other interested parties. If you have information pertaining to cultural resources within the permit area, please provide this information to the Corps' project manager identified at the end of this notice to assist in a complete evaluation of potential effects.

State and Local Authorizations: The applicant has obtained approval from Curry County Planning Department and would apply or renew authorizations with the Oregon Department of State Lands.

Public Hearing: Any person may request in writing within the comment period specified in this 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.

Evaluation: The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impacts, of the described activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the described activity, must be balanced against its reasonably foreseeable detriments. All factors, which may be relevant to the described activity will be considered including the cumulative effects thereof; among those 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, consideration of property ownership and, in general, the needs and welfare of the people.

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 the proposed project. 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 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 of the proposed activity.

Submitting Comments: Interested parties are invited to provide comments on the proposed project. Comments may be submitted by conventional mail or email. All comments received will be considered in determining whether authorizing the work would be contrary to the public interest.

Either conventional mail or e-mail comments must include the Corps reference number as shown on page 1 and include the commenter's name and address. In order to be accepted, e-mail comments must originate from the author's e-mail account and must include on the subject line of the e-mail message the Corps reference number. All comments received will become part of the administrative record and are subject to public release under the Freedom of Information Act including any personally identifiable information such as names, phone numbers, and addresses.

Additional information about the proposed project may be obtained from the Corps Project Manager listed below. All comments, whether by conventional mail or email, must be received no later than the expiration date of this public notice to ensure consideration. Comments should be submitted to the following mailing address or email address:

U.S. Army Corps of Engineers
Tyler J. Krug
North Bend Field Office
2201 North Broadway Suite C
North Bend, Oregon 97459-2372
Email: Tyler.J.Krug@usace.army.mil
Telephone: (541) 756-2097

PUBLIC NOTICE
Oregon Department of Environmental Quality (DEQ)
Water Quality 401 Certification

Notice Issued: July 22, 2016
Written Comments Due: August 22, 2016

Corps of Engineers No: NWP-1997-200/4
Oregon Department of State Lands No: N/A

WHO IS THE APPLICANT: Mr. Doug Robbins
Curry County Road Department
28245 Hunter Creek Road
Gold Beach, Oregon 97444
Telephone: (541) 247-7079

LOCATION OF CERTIFICATION ACTIVITY: See attached U.S. Army Corps of Engineers public notice.

WHAT IS PROPOSED: See attached U.S. Army Corps of Engineers public notice on the proposed project.

NEED FOR CERTIFICATION: Section 401 of the Federal Clean Water Act requires applicants for Federal permits or licenses to provide the Federal agency a water quality certification from the State of Oregon if the proposed activity may result in a discharge to waters of the state.

DESCRIPTION OF DISCHARGES: See attached U.S. Army Corps of Engineers public notice on the proposed project.

WHERE TO FIND DOCUMENTS: Documents and materials related to water quality issues as a result of the proposal are available for examination and copying at Oregon Department of Environmental Quality, 401 Water Quality Certification Coordinator, Northwest Region, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232. Other project materials are available by contacting the Corps per the attached public notice.

Scheduling an appointment will ensure that water quality documents are readily accessible during your visit. To schedule an appointment please call DEQ Water Quality at Northwest Region at (503) 229-5263.

Any questions on the water quality certification process may be addressed to the 401 Program Coordinator at (503) 229-6030 or toll free within Oregon at (800) 452-4011. People with hearing impairments may call the Oregon Telecommunications Relay Service at 1-800-735-2900.

PUBLIC PARTICIPATION:

Public Hearing: Oregon Administrative Rule (OAR) 340-48-0032 (2) states that “The Corps provides public notice of and opportunity to comment on the applications, including the application for certification, provided that the department (DEQ), in its discretion, may provide additional opportunity for public comment, including public hearing.”

Written comments:

Written comments on project elements related to water quality must be received at the Oregon Department of Environmental Quality by 5 p.m. on the date specified in the upper right section on page one of this notice. Written comments may be emailed, mailed or faxed as described below:

Email - 401publiccomments@deq.state.or.us

Mail - Oregon Department of Environmental Quality, Northwest Region
700 NE Multnomah Street, Suite 600
Portland, Oregon 97232
Attn: 401 Water Quality Certification Coordinator

Fax - (503) 229-6957

WHAT HAPPENS NEXT: DEQ will review and consider all comments received during the public comment period. Following this review, certification of the proposal may be issued as proposed, issued with conditions, or denied. You will be notified of DEQ's final decision if you submit comments during the comment period. Otherwise, if you wish to receive notification, please call or write DEQ at the above address.

ACCESSIBILITY INFORMATION: This publication is available in alternate format (e.g. large print, Braille) upon request. Please contact DEQ Office of Communications and Outreach at (503) 229-5317 or toll free within Oregon at 1-800-452-4011 to request an alternate format. People with a hearing impairment can receive help by calling the Oregon Telecommunications Relay Service at 1-800-735-2900.

PUBLIC NOTICE
OREGON OCEAN AND COASTAL MANAGEMENT PROGRAM
CONSISTENCY CERTIFICATION

Date: July 22, 2016

U.S. Army Corps of Engineers No: Corps No. NWP-1997-200/4

Oregon Department of State Lands No: N/A

NOTIFICATION:

For projects subject to coastal zone review, notice is hereby given that the project is being reviewed by the Department of Land Conservation and Development (DLCD) as provided in Section 307(c) of the Coastal Zone Management Act. The applicant believes that the activities described in the attached materials would comply with and be conducted in a manner consistent with the Oregon Ocean and Coastal Management Program. Project information can be made available for inspection at DLCD's Salem office.

DLCD is hereby soliciting public comments on the proposed project's consistency with the Oregon Coastal Management Program. Written comments may be submitted to DLCD, 635 Capital Street NE, Suite 150, Salem, Oregon 97301-2540. Comments may also be sent by fax to (503) 378-6033 or by email to coast.permits@state.or.us. All comments must be received by DLCD on or before the comment deadline listed in the accompanying Corps of Engineers' Public Notice Application for Permit. For further information, you may call DLCD at (503) 373-0050.

REVIEW CRITERIA:

Comments should address consistency with the applicable ***enforceable policies*** of the Oregon Coastal Management Program. These enforceable policies are found in the following:

- Acknowledged Local Comprehensive Plans & Implementing Ordinances
- Statewide Planning Goals
- Applicable State Authorities incorporated into the Oregon Coastal Management Program (e.g. Removal-Fill Law, Water Quality Standards, Beach Bill, etc.) as applicable.

A list of specific enforceable policies can be found at the following link:

http://www.oregon.gov/LCD/OCMP/Pages/OCMP_Enforceable-Policies.aspx

INCONSISTENT?

If you believe this project is inconsistent with the Oregon Coastal Management Program, your comments to DLCD should explain why you believe the project is inconsistent and should identify the Oregon Coastal Management Program element(s) in question. You should also describe how the project could be modified, if possible, to make it consistent with the Oregon Coastal Management Program.