



Kalmiopsis Audubon Society
P.O. Box 1265 Port Orford OR 97465

July 19, 2009

Curry County Commissioners
Post Office Box 746
Gold Beach, Oregon 97444

Dear Commissioners Nowlin, Rhodes, and Waddle:

I am writing on behalf of the Kalmiopsis Audubon Society in Curry County, Oregon. Our group has over 175 members--including several who live on or near Elk River and who guide fishing trips on Elk River--who are concerned about habitat for fish, birds, and wildlife and so we are very concerned about Application No. A-0904/C-8715, a permit that will allow Tidewater Contractors to remove 12,000 cubic yards of gravel from the Elk River.

This permit was renewed indefinitely in 2006. At the time, we were not aware that the planning commission was considering an indefinite renewal of the permit.

We believe that several conditions have changed since the permit was first issued in 1987 and renewed in 2006 that make it important for the permit to be reconsidered *in toto*. Because environmental situations can change, we believe that it is important that permits of this type are reviewed and renewed on a regular basis.

For this reason, we urge you to withdraw the indefinite renewal for this permit and to require that the applicants pursue a new application to the Planning Commission so that full consideration of current conditions can be made.

Since the permit was issued in 1987 and renewed in 2006, some key changes in conditions include, but are not limited to:

- Emergence of new science regarding impacts of gravel extraction on salmonid habitat
- Listing of SONCC coho as a threatened species and establishment of Essential Fish Habitat in the lower Elk River
- Continued decline of the Pacific coast salmon fishery that makes conservation of spawning and rearing habitat for local chinook and steelhead runs more crucial
- Contractor's record of violation on Rogue River
- Evidence that gorse seeds may not be killed off by asphalt burning as currently practiced

Emergence of new science

A key change since the permit was first issued in 1987 and renewed in 2006 is the emergence of new scientific understanding about the impacts of gravel extraction on salmon habitat. Some key documents in this new scientific understanding were published and made broadly accessible in the following documents in 2006:

Proceedings of the Regional Symposium on In-Stream Gravel Extraction and its Effect on Fisheries, (the symposium was held in Charleston at South Slough National Estuarine Research Reserve).

Sediment Removal From Active Stream Channels In Oregon: Considerations for Federal Agencies for the Evaluation of Sediment Removal Actions from Oregon Streams.

In addition, there have also been relevant reports from the state-appointed Independent Multi-Disciplinary Science Team (IMST) regarding the impacts of gravel extraction on salmonids.

Prior to that, other reports began to elucidate these impacts, including the National Marine Fisheries Service's *National Gravel Extraction Policy* and the Oregon Water Resources Research Institute, *Gravel Disturbance and Impacts on Salmonid Habitat and Stream Health*, 1995.

Before the dissemination of this information, it was widely held that extracting gravel from gravel bars adjacent to and within the riverbed was the best practice because gravel seemed to be a continually renewing resource. This was the understanding of the planning commission at the time that the original permit was granted in 1987 and when the permit was renewed in 2006.

However, the new science indicates that traditional practices for gravel extraction have had degrading effects when more gravel has been taken than has been replenished. Traditional regulatory techniques of surveying bars for gravel recruitment at the extraction site each year have not taken into account downstream changes in the riverbed and the estuary--key habitats for salmon rearing. These impacts may take a long period to develop since flood events that move gravel on a large scale do not happen every year.

One of the key findings of the *National Gravel Extraction Policy* is that **"larger rivers and streams should be used preferentially to small rivers and streams"** for gravel extraction. (<http://swr.nmfs.noaa.gov/hcd/gravelsw.htm>) In Curry County, we have two larger rivers, the Chetco and the Rogue, where there are already ample gravel extraction sites that can provide for our region's gravel and asphalt needs. These larger rivers, especially the Rogue, drain much larger areas, carry much larger flows of water and sediment, and have more gravel and wider floodplains. In these larger systems, the impact of gravel extraction is proportionally smaller on fish and the river system.

The Elk River drains an area of only 90 square miles. By comparison, the Rogue drains an area of 5,160 square miles (more than 50 times larger than the Elk!) and has an annual mean flow of 5,967 cfs; while the Chetco drains an area of 359 square miles (nearly three times larger than the Elk) and has an annual mean flow of 2,301 cfs. The Elk flows at only a fraction of the Chetco's volume.

New science also indicates that the "vertical trend" in a river--the fact that gravels are actually aggrading in the *river system* rather than at one particular site--must be established prior to permitting of gravel extraction in order to assure that removal of gravel does not negatively impact salmon spawning and rearing habitat.

We believe that scientific information available in these references casts new light on the decision to allow for gravel extraction in known spawning areas for chinook and steelhead in

the Elk River. A gravel budget study should be completed to determine how much gravel can be taken from the river's bars without negatively impacting salmon rearing and spawning habitat.

(In addition, it is important to note that there are alternative sources for gravel in the north county. There are several local upland gravel extraction operations that remove fossil river gravels from fields distant from the channel of the Elk and then restore the land surface with best practices. There are currently ample gravels in these deposits to meet local needs.)

Listing of coho as a threatened species

Since the permit was initially granted the Southern Oregon Northern California Coastal (SONCC) coho were listed as a threatened species in 1997, with that status reaffirmed in 2005. In 2000, the Elk River was included as Essential Fish Habitat (EFH) for Pacific salmon pursuant to the Magnuson-Stevens Act. Coho rear during summer months in the area of the Elk that is under consideration for gravel extraction. They also spawn in Indian Creek, a tributary that enters the Elk in the proposed gravel extraction area.

Continued decline of the Pacific Coast salmon since 1987/2006

Given that the Pacific Coast salmon fishery shut down last summer owing to collapse of chinook runs on the Sacramento River, we believe that the matter of conserving spawning habitat for our local chinook, steelhead, and coho runs has become extremely important. The economy of our local North Curry community is highly dependent on the sport fishery and the bubble commercial fishery afforded by the relatively robust salmon runs on the Elk River. Restaurants, motels, the hardware store, and other small businesses depend on the traffic of sport anglers who come to experience the Elk's renowned fishery. There are dozens of Curry County guides who bring clients to the river. The economy of North Curry depends on the health of the Elk River.

Contractor's record of violation

Although the current property owners and permit holders--the Wagners--have no record of complaint or violation, Tidewater, the company that would remove the gravel, reportedly has a record of violation on the Rogue River. In 2007, Tidewater illegally removed 60,000 cubic yards of gravel from the Rogue River estuary. Two years later, this violation with DOGAMI remained unresolved and unmitigated according to Curry County Planning Department records as of April 23, 2009. (As of July 15, 2009, the county had not been informed that this violation had been resolved or mitigated for, and I was unable to confirm the status of this violation directly from DOGAMI.)

Although the contractor has stated a desire to operate in an environmentally friendly manner in applications for gravel extraction on the Elk River, the record indicates inconsistency between the contractor's words and actions. We are concerned about the contractor's apparent disregard for laws intended to protect fish habitat given the high-value fish-spawning habitat that will be adjacent to the proposed mining area.

Evidence that gorse may not be killed by cooking in an asphalt burner

Gorse is a noxious spiny weed that has caused incalculable property damage to thousands of acres of forest and rangeland in North Curry County.

It has come to our attention that asphalt made from gravel at the Elk River site has indeed contributed to the spread of gorse despite the permit condition that the gravel be processed in an asphalt burner to kill gorse seeds. Given evidence that cooking gravel in an asphalt burner does not prevent the spread of gorse, that *condition needs to be reconsidered*.

CONCLUSION AND RECOMMENDATIONS

All these changes in circumstances should be considered as part of the decision to renew the conditional use permit if the intent of the Curry County Zoning Ordinance is to be honored.

As just one example, the Curry County Zoning Ordinance Standards Governing Conditional Uses for mining, quarrying or other extractive activity require that the Planning Commission consider "the impact of the proposed use on water quality, water flow, or fish habitat on affected rivers or streams." (CCZO, VII Section 7.040) Clearly, this is a standard that needs to be revisited.

Given that the County Planning Commission issued a conditional use permit indefinitely without providing citizens and neighbors an opportunity to offer input about changing circumstances on the Elk River,

Given that the Elk is a superlative river with a very high quality fishery based on the excellent habitat it affords and that gravel extraction activities that could harm the salmonid habitat and water quality,

Given the contractor's record of violation,

Given that gorse that has caused property damage to thousands of acres of ranch and forestland in north Curry County and that operations under this permit could allow further spread of this noxious weed,

We urge you to withdraw the indefinite renewal for this permit and to require that the applicants to present their application to the Planning Commission again for a new review under current conditions.

If you are inclined to allow the indefinite permit to stand, we respectfully request that this hearing record remain open so that we can supply more substantive comments regarding the specific types of conditions that need to be added to protect fish and wildlife habitat.

Thank you for considering our comments,

Sincerely,

/Ann Vileisis/

President