



**US Army Corps  
of Engineers®**

Albuquerque District

# PUBLIC NOTICE

**Application Number: SPA-2009-00460**

**Date: January 24, 2012**

**Comments Due: February 23, 2012**

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**SUBJECT:** The U.S. Army Corps of Engineers, Albuquerque District, (Corps) is evaluating a permit application to remove sand and gravel from approximately 1,800 linear feet of waters of the United States in or adjacent to the Rio Chama River. This notice is to inform interested parties of the proposed activity and to solicit comments.

**AUTHORITY:** This application is being evaluated under Section 404 of the Clean Water Act for the discharge of dredged or fill material in waters of the United States (U.S.).

**APPLICANT:** Russell Sand and Gravel  
ATTN: Russell Casados  
P.O. Box 13124  
Las Cruces, New Mexico 88013

**LOCATION:** The project site is located on the Rio Chama River, at 150 County Road 340, Latitude 36° 43' 30.4602", Longitude -106° 34' 33.2718", Los Ojos, Rio Arriba County, New Mexico.

**PROJECT DESCRIPTION:** On May 18, 2010 and October 19, 2010, a public notice was issued for the project to include the construction of a levee with removal of sand and gravel from the Rio Chama River. Since the issuance of the original public notice, the applicant has amended their plans. The applicant is now proposing to excavate and remove annual accumulations of sand and rock bars deposited in the Rio Chama stream channel by annual snowmelt runoff and flood flows. The project reach extends approximately 1,800 lineal feet and covers an area of approximately 10 acres. The project area encompasses the entire width of the streambed excepting 10-foot setbacks from the toe of the river banks and when limited by river flow. The actual area of daily operations will typically be limited to 1 or 2 acres.

Section 404 approval is required to allow temporary and incidental discharges (spillage) of river sand and rock to occur as the material is being excavated and removed out of the streambed and ordinary high water area of the Rio Chama. Russell Sand and Gravel anticipates that no more than 25 cubic yards of material will be discharged daily during operations. These discharged materials will be removed daily from the streambed. Incidental and temporary fill (spillage) and stockpiling of small quantities of sand, gravel

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and cobble will occur during the course of mining these materials from the streambed. These will include spill of materials from loader buckets, or materials being pushed into piles by the operating machinery. These materials will be allowed to accumulate during the course of the workday in five (5) to seven (7) small piles of up to 25 yards in volume (cumulative). All stockpiled materials will be removed by the close of the workday, usually by 6:00 pm.

Conventional equipment such as front-end loaders, backhoes and track hoes, etc. will be used to scrape the material out of the streambed. Total depth of excavation is typically 3 to 5 feet and limited by the shallow presence of bedrock (Mancos Shale). Bedrock material is not excavated. The material is usually removed immediately from the streambed by the excavating machinery or by loading a waiting dump truck.

The discharge (spillage) and removal of small quantities of native sand and rock from the Rio Chama streambed will not increase channelization of the river or in the separation of the river from its floodplain. The proposed dredge and fill activities will be limited to periods of time of extreme low flow. Therefore, the annual processes of the formation of riffles, pools and bar formation will not be stopped. Setbacks from the river banks and significant water resources upstream and downstream will provide additional protections.

**PROPOSED MITIGATION:** The applicant proposes to minimize impacts to the Rio Chama River by implementing the following practices: Work will be limited seasonally to begin only after the recession of spring-summer runoff and will end by December; A 100-ft setback will be maintained from the north property boundary to mitigate the potential for head cutting; Ten (10) foot setbacks will be maintained from both river banks to mitigate potential for bank erosion; A 100-ft setback will be maintained from downstream riparian resource to mitigate potential impacts from turbidity and sedimentation; Dirt access road into the riverbed will be constructed by excavating a ramp up the bank and not by the placement of fill into the riverbed; Daily inspection of operating equipment and maintenance as needed to prevent fuels, lubricants and other fluids from entering the streambed; Equipment will not operate in river flows greater than 1.5 feet in depth; Small temporary berms (typically no more than 1-foot in height and 20 ft in length consisting of material native to the streambed may be used to divert low flows around the area of excavation; These berms will be constructed in a manner to insure that the river flows through the affected reach in a continuous stream to allow the passage of fish and other aquatic life; For sediment control during periods of low flow the excavation around the flow will be undertaken such that the stream will be directed into shallow pits and allowed to flow through adjacent sand and gravel beds; All stockpiles will be removed daily from the streambed by 6:00 pm, or sooner if storm runoff is anticipated; and weather will be monitored and work within the streambed will be modified or cease in anticipation of a stormwater runoff event.

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## **OTHER AUTHORIZATIONS:**

**State Water Quality Certification:** The applicant is required to obtain water quality certification, under Section 401 of the Clean Water Act, from the New Mexico Environment Department. Section 401 requires that any applicant for an individual Section 404 permit provide proof of water quality certification to the Corps of Engineers prior to permit issuance. For any proposed activity on Tribal land that is subject to Section 404 jurisdiction, where the tribe does not have water quality certifying authority, the applicant will be required to obtain water quality certification from the U.S. Environmental Protection Agency.

## **ADDITIONAL INFORMATION:**

**Environmental Setting.** There are approximately 1,800 linear feet of the Rio Chama River that are waters of the U.S. within the proposed project area. The site is characterized by open water habitat. No wetlands are to be filled by the proposed project.

**Alternatives.** The applicant has provided information concerning project alternatives. Additional information concerning project alternatives may be available from the applicant or their agent. Other alternatives may develop during the review process for this permit application. All reasonable project alternatives, in particular those which may be less damaging to the aquatic environment, will be considered.

**EVALUATION FACTORS:** The decision whether to issue a permit will be based on an evaluation of the probable impacts, 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 activity's impact on the public interest will include application of the Section 404(b)(1) guidelines promulgated by the Administrator, Environmental Protection Agency (40 CFR Part 230).

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 this proposed activity. 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 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

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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.

**HISTORIC PROPERTIES:** The Corps consulted district files and records, the latest version of the National Register of Historic Places (NRHP), and state records of NRHP-eligible and potentially eligible historic properties to determine if there are any historic properties that may be affected by the proposed undertaking. The project area has not been recently surveyed for historic properties; further identification efforts may be required. Based on this initial information, the Corps has made a preliminary determination that the proposed project will not likely affect any historic properties that meet the criteria for inclusion in the NRHP.

**ENDANGERED SPECIES:** The Corps has reviewed the U.S. Fish and Wildlife Service's latest published version of Federally-listed endangered and threatened species located in Rio Arriba County, New Mexico, to determine if any listed species or their critical habitat may occur in the proposed project area. The Corps has made a preliminary determination that the proposed project may affect but not likely to adversely affect Black-footed ferret and Southwestern willow flycatcher. The Corps has initiated consultation with the U.S. Fish and Wildlife Service pursuant to Section 7 of the Endangered Species Act, as appropriate.

**FLOODPLAIN MANAGEMENT:** The Corps is sending a copy of this public notice to the local floodplain administrator. In accordance with 44 CFR part 60 (Flood Plain Management Regulations Criteria for Land Management and Use), the floodplain administrators of participating communities are required to review all proposed development to determine if a floodplain development permit is required and maintain records of such review.

**CLOSE OF COMMENT PERIOD:** All comments pertaining to this Public Notice must reach this office on or before February 23, 2012, which is the close of the comment period. Extensions of the comment period may be granted for valid reasons provided a written request is received by the limiting date. If no comments are received by that date, it will be considered that there are no objections. Anyone may request, in writing, that a public hearing be held to consider this application. Requests shall specifically state, with particularity, the reason(s) for holding a public hearing. If the Corps determines that the information received in response to this notice is inadequate for thorough evaluation, a public hearing may be warranted. If a public hearing is warranted, interested parties will be notified of the time, date, and location. Comments and requests for additional information should be submitted to:

Chris Wrbas, Project Manager  
US Army Corps of Engineers, Albuquerque District  
1970 East 3<sup>rd</sup> Avenue, Suite 109  
Durango, Colorado 81301  
970-259-1947  
E-mail: Christopher.r.wrbas@usace.army.mil

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Please note that names and addresses of those who submit comments in response to this public notice may be made publicly available through the Freedom of Information Act.

DISTRICT ENGINEER  
ALBUQUERQUE DISTRICT  
CORPS OF ENGINEERS

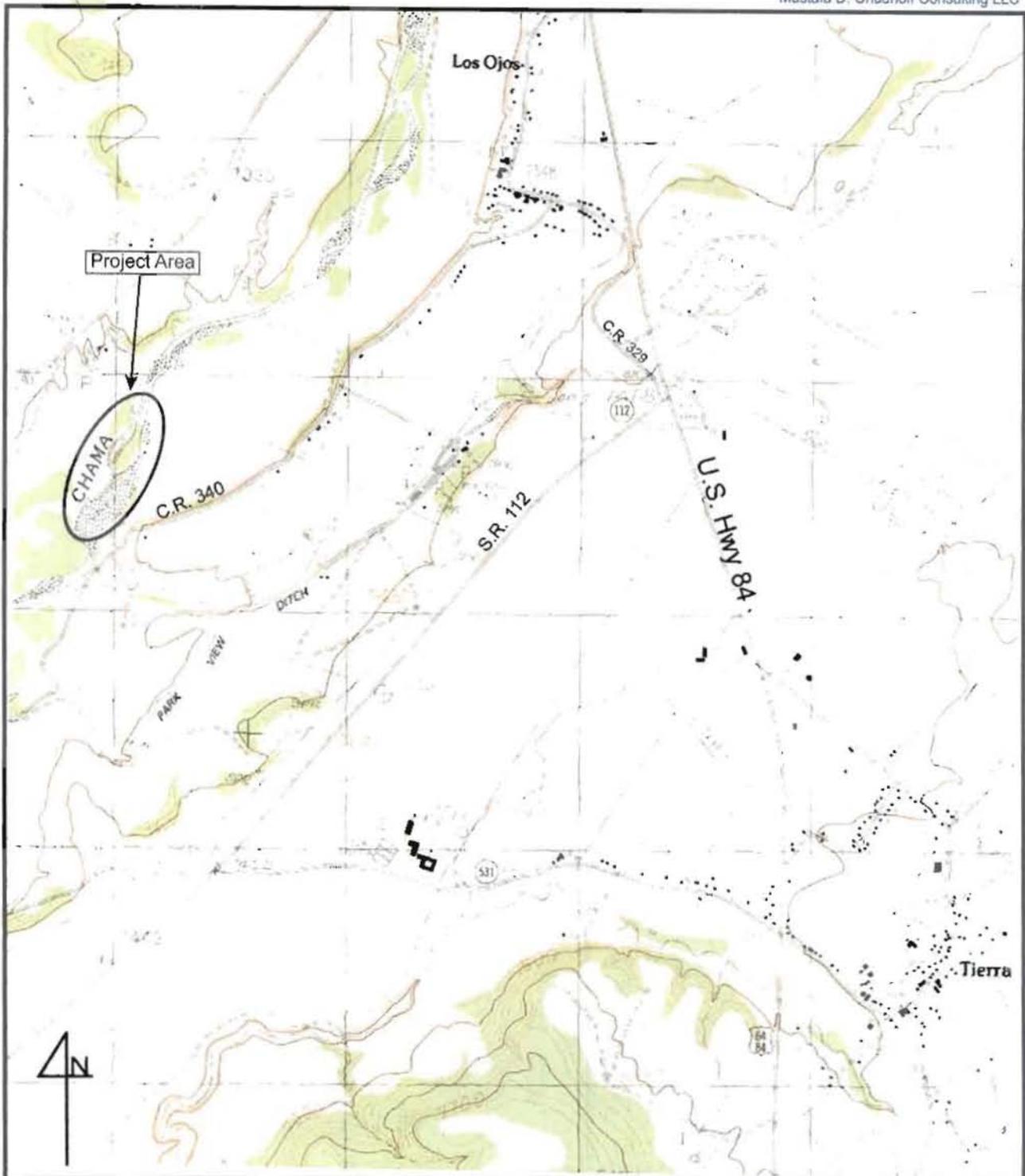
Enclosure

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Mustafa D. Chudnoff Consulting LLC

SPA-2009-00460-DR #1



Russell Sand & Gravel Los Ojos Vicinity Map  
(scale 1" = 2085 ft +/-)

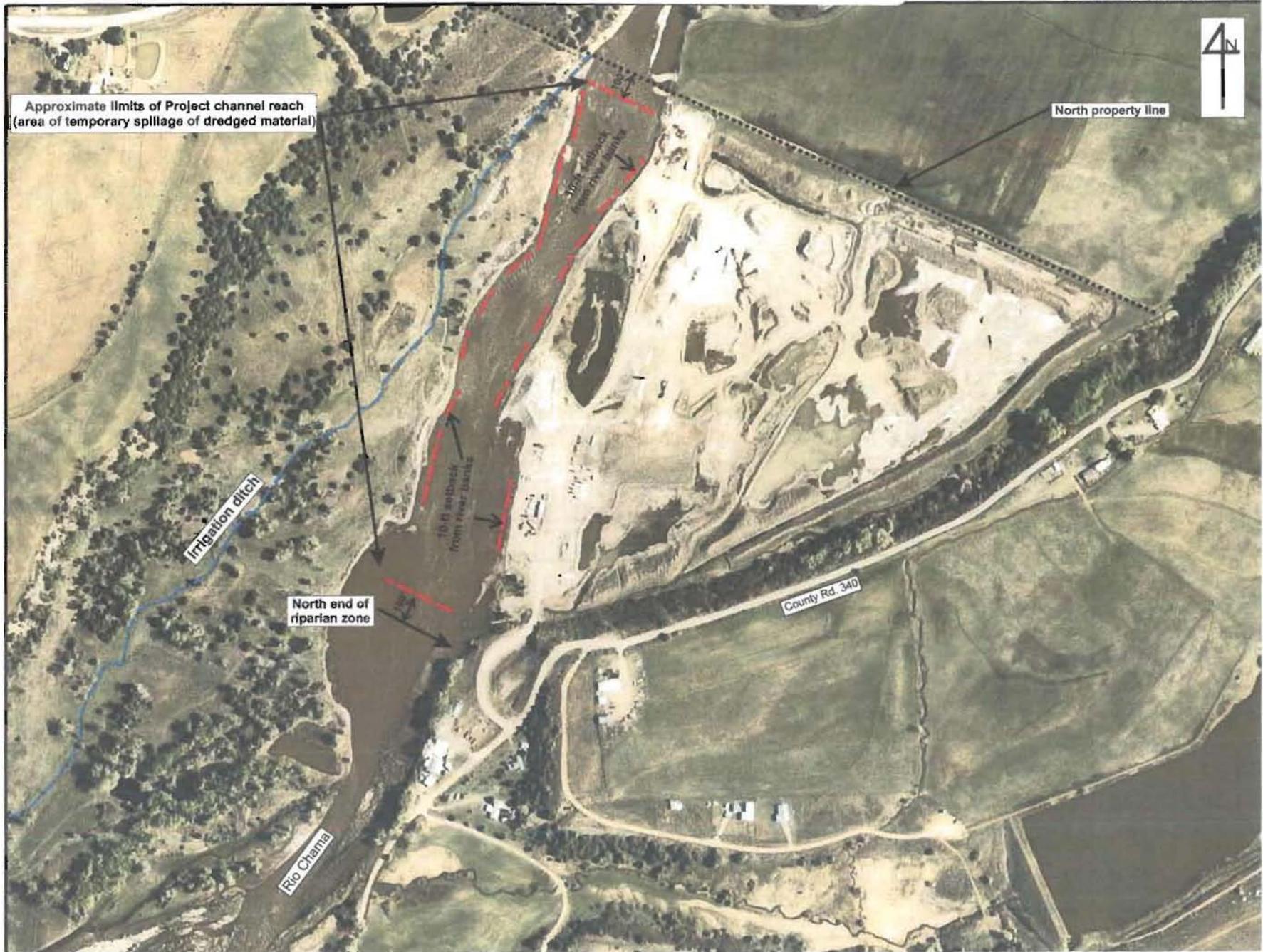
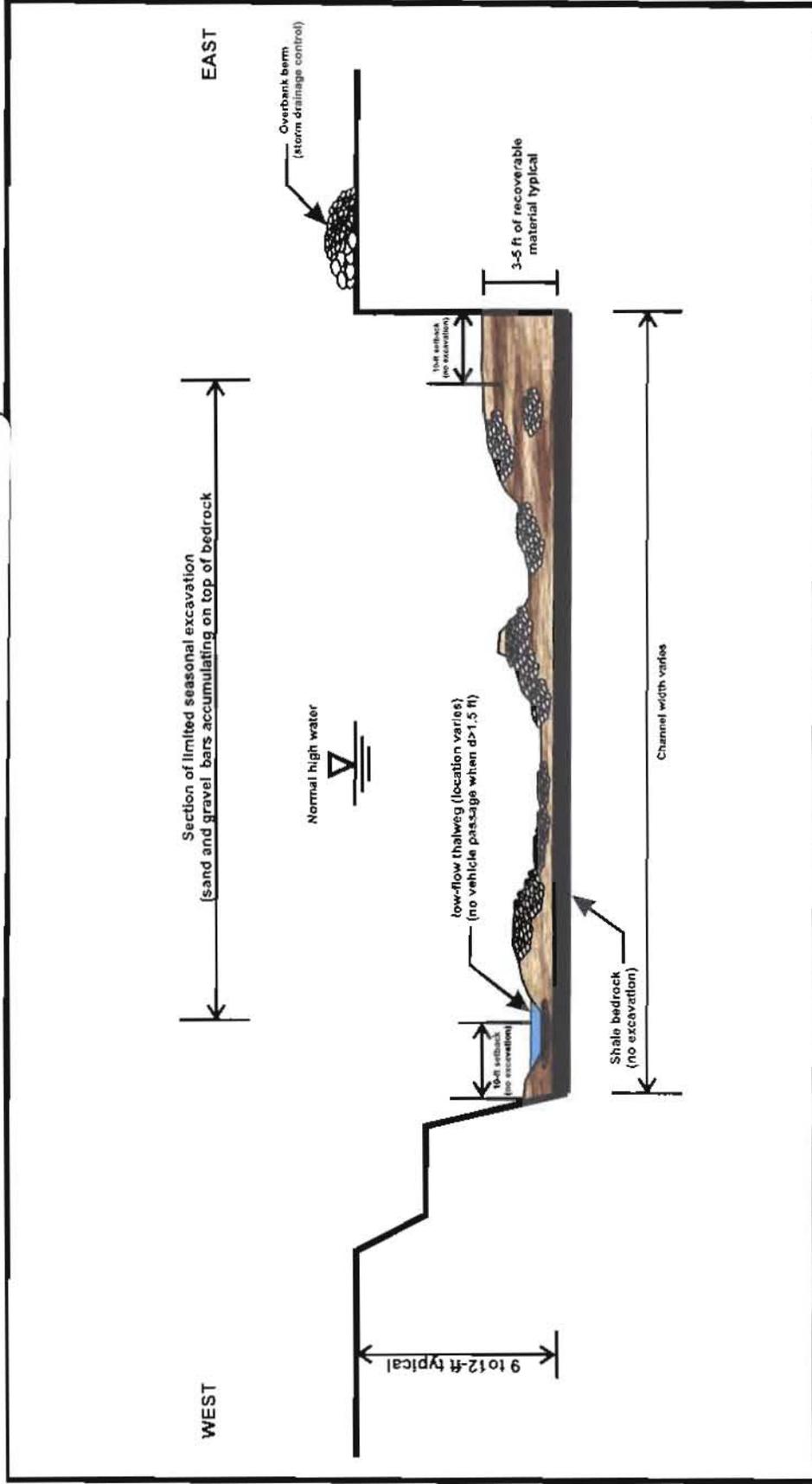


Figure 2. Russell Sand & Gravel Los Ojos - Area of Excavation and Fill (Spillage)  
(scale 1" ~460 ft)

SPA-2009-00460-DR #3



Russel Sand and Gravel, Inc. Project Cross-Section  
(no scale)