

Attachment 1
Proposed CHERT Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF HUMBOLDT ADDING CHAPTER 2 TO DIVISION 9 OF TITLE III OF THE HUMBOLDT COUNTY CODE RELATING TO THE COUNTY OF HUMBOLDT EXTRACTION REVIEW TEAM

The Board of Supervisors of the County of Humboldt ordain as follows:

SECTION 1. Legislative Findings:

Whereas, the County of Humboldt Extraction Review Team (CHERT) was formed by Resolution of the Humboldt County Board of Supervisors (the Board) on May 14, 1996.

Whereas, on May 14, 1996, the Board appointed five scientists to CHERT.

Whereas, three out of the five original appointees still actively serve.

Whereas, the County is in need of a method to fill vacancies on CHERT and desires to codify that process and the roles and responsibilities of CHERT.

SECTION 2. Chapter 2 of Division 9 of Title III of the Humboldt County Code is hereby added as follows.

SECTION 3. This ordinance shall take effect and be in force thirty (30) days from the date of its passage. A summary shall be published at least five (5) days before the date set for adoption and again fifteen (15) days after passage of this ordinance. It shall be published once with the name of the Supervisors voting for and against the ordinance in a newspaper of general circulation published in the County of Humboldt, State of California.

PASSED, APPROVED AND ADOPTED this _____ day of _____, 2018.

AYES: Supervisors—
NOES: Supervisors--
ABSENT: Supervisors—

Chair of the Board of Supervisors of
the County of Humboldt, State of California

(SEAL)

ATTEST:

Kathy Hayes, Clerk of the Board of Supervisors
County of Humboldt

**TITLE III-LAND USE AND DEVELOPMENT
DIVISION 9 – MINING OPERATIONS**

Chapter 2 – County of Humboldt Extraction Review Team (CHERT)

§ 392-1. Codification

§ 392-2. Composition.

§ 392-3. Duties of CHERT.

§ 392-4. Compensation.

§ 392-5. Legal Relationship with County.

§ 392-6. Conflict of Interest.

§ 392-7. Dispute Resolution Procedure.

County of Humboldt Extraction Review Team (CHERT); members; duties; lead scientist; succession.

§ 392-1 Codification.

The County of Humboldt Extraction Review Team is hereby codified and shall hereinafter be referred to as CHERT.

§392-2. Composition:

(a) CHERT shall consist of at least three and no more than five appointees who shall serve at the pleasure of the Board of Supervisors. New appointees shall be recommended to the Board of Supervisors for ratification as needed to fill vacancies by a membership review panel comprised of (1) representatives from the Humboldt County Planning and Building Department, (2) one representative from the US Army Corps of Engineers, (3) one representative from the California Department of Fish and Wildlife Services, and (4) one representative from the National Marine Fisheries Service. The Planning and Building Department shall bring requests for appointment of new members to the Board of Supervisors.

(b) Appointment Criteria:

Appointees to CHERT shall possess, at a minimum, a Bachelor of Science or advanced degree (Master of Science or PhD) in hydrology, fluvial geomorphology, riparian ecology, or a related field of study.

At any one time, CHERT shall, when taken as a whole, possess expertise in all of the above-listed fields except in the event of unexpected vacancies while replacement members are being sought and selected.

Appointed members will serve a five year appointment and may serve successive terms if continuation is recommended by the review panel and approved by the Board of Supervisors. Members may be removed for cause at any time during their appointment if recommended by the review panel majority and approved by the Board of Supervisors.

Appointees shall not be directly affiliated with a company or individual subject to the review activities of CHERT.

(c) Lead scientist:

The Director of the Planning and Building Department shall, in consultation with CHERT, select and appoint a lead scientist for CHERT from the CHERT members. The lead scientist shall coordinate with other members to distribute work, coordinate site visits, and be the point of contact for the Planning Department, gravel operators, and regulatory agencies. The lead scientist shall ensure that CHERT completes the duties listed below.

The term of office for the lead scientist shall be five years, and may be appointed for successive terms if recommended by the review panel majority and approved by the Board of Supervisors.

§392-3. Duties of CHERT:

CHERT appointees shall, as individual contractors to the County, review gravel mining proposals submitted each year by gravel operators as part of a multi-agency review process. CHERT shall advise gravel operators and regulatory agencies on mining methods and volumes that minimize adverse impacts to riparian plant and animal species, their habitats, and river infrastructure.

CHERT shall be responsible for the following duties:

- (1) For each extraction year, CHERT shall furnish the County annual cost estimates for services in the Humboldt County gravel mining management program no later than January 30th.
- (2) Assume the duties of the Scientific Design and Review Committee for all gravel extraction operations on the Mad River that are covered by the Final Program EIR on Gravel Removal from Lower Mad River (certified May 31, 1994) and the Supplemental Programmatic EIR for Gravel Extraction on the Lower Mad River (certified December 16, 2014).
- (3) Perform CHERT duties as described in the Interim Monitoring Program for the Lower Eel and Van Duzen Rivers adopted July 2, 1996, and amended April 1, 1997.

- (4) Perform CHERT duties as described in the U.S. Army Corps of Engineers Letter of Permission Procedure adopted September 18, 2015, and as described in any future amendments.
- (5) Prepare an annual post-extraction compliance report as required in the Final Program EIR on Gravel Removal from the Lower Mad River certified on May 31, 1994, and a post-extraction report on the Lower Eel and Van Duzen Rivers as required in the Interim Monitoring Program and Adaptive Management Practices for Gravel Removal from the Lower Eel and Van Duzen Rivers adopted July 2, 1996 and revised April 1, 2007.
- (6) Draft post-extraction reports shall be submitted on or before February 1st of each year to the County Planning Director, California Department of Fish and Wildlife, U.S. Army Corps of Engineers, and National Marine Fisheries Service. The draft report shall be made available for public comment. If no comments are received, then the draft becomes the final report. If comments are received, CHERT shall draft responses and submit these along with a final report to the County for review and posting to the County's SMARA web page.
- (7) Other gravel-mining related tasks that are not part of the annual review process at the direction of the Department of Planning and Building.

§392-4. Compensation:

CHERT members shall be compensated at a rate to be determined by the Director of the Planning and Building Department. CHERT members shall enter into a contract with the County governing compensation and duties. The cost of CHERT activities shall be billed pro-rata to gravel operators and collected by Department of Planning and Building on a cost recovery basis.

§392-5. Legal Relationship with County:

CHERT is not an agency, board, commission, or department of the county of Humboldt, and CHERT members (and any employees or staff) are not employees or agents of the county of Humboldt. CHERT members are independent contractors.

§392-6. Conflict of Interest:

If a CHERT member has a conflict of interest on a particular project, the conflict of interest shall be disclosed to the Director of the Planning and Building Department for review in accordance with Departmental policies and procedures. A conflict of interest occurs when a CHERT member has professional or personal interests that compete with his or her services to the County as a CHERT member. Such competing interests may make it difficult for a CHERT member to fulfill his or her duties impartially. Should a conflict of interest exist be found to exist, the CHERT member shall not participate in the particular project for which a conflict of interest exists.

§392-7. Dispute Resolution Procedure:

Any party (gravel operator, public resources agency representative, member of the public, etc.) may contact the Director of the Humboldt County Planning and Building Department to provide feedback regarding CHERT. In the event the Director receives a complaint regarding CHERT, the Director or his/her designee shall meet with the complaining party and a representative of CHERT to attempt to resolve the issue. This meeting shall occur within thirty days of receipt of a complaint. If the parties are unable to resolve the dispute, the Director may recommend that the parties engage in mediation.