



US Army Corps
of Engineers®

Regulatory Branch
1455 Market Street
San Francisco, CA 94103-1398

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

Project: Lake Earl Spring Breach 2007

NUMBER: 400433N

DATE: 18 May 2007

RESPONSE REQUIRED BY: 13 June 2007

PROJECT MANAGER: Kelley Reid

PHONE: 707-443-0855

Email: Kelley.e.reid@usace.army.mil

1. INTRODUCTION: The County of Del Norte (County) (POC Mr. Art Reeve, 707-464-7229), 981 "H" Street, Suite 110, Crescent City, CA 95531, has applied to the U.S. Army Corps of Engineers (USACE) for a Department of the Army permit to breach Lake Earl and Lake Talawa lagoons by excavating a trench across the sandbar to the Pacific Ocean. This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. Section 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. Section 403).

2. PROPOSED PROJECT: The management of the Lake Earl Wildlife Area (LEWA) includes the periodic breaching of the lagoons during the winter months. Although the County and Department of Fish and Game jointly have a permit to breach the lagoon when the water surface reaches eight feet Mean Sea Level (MSL) in the period between September 1st and February 15th and when the water surface is above five feet MSL on February 15th, the spring storms have again filled the lagoons this year to a depth greater than 9 feet MSL by the middle of April. Approximately 100 feet of Kellogg Road is currently inundated under about 4 inches of water.

Purpose and Need: The basic purpose of this project is to reduce the lagoon water level this spring one-time only. When the water levels rise higher than eight feet, neighboring ranchers begin to have their pastures inundated. When the water levels rise higher than 10 feet, local roads and yards become inundated. Anecdotally, the LEWA has apparently naturally

breached between at approximately **10 feet** MSL in 2005 and 2006.

Project Site: The breach location is in Section 31, T17N-R1W, HBM, Crescent City Quadrangle, as depicted on the attached map (Sheets 1 and 2 of 3). Current conditions at the site consist of an unvegetated sandbar, approximately twelve to fifteen feet in height, separating the brackish lagoons from the surf-zone of the Pacific Ocean.

Impact: Utilizing a bulldozer or other excavation equipment, the County proposes to excavate a trench 20 feet wide, with 20 feet wide spoil ridge on either side, 5 feet deep, and approximately 200 feet long. The County anticipates that approximately 500 cubic yards (cy) of sand would be sidecast at the breach site. Approximately 300 cy may be below the high tide line. When the trench is deep enough to allow water to begin flowing out of the lagoons into the ocean, the flowing water also scours and carries sand to the ocean as well, which further deepens and widens the breach

3. COMPLAINT WITH VARIOUS FEDERAL LAWS:

National Environmental Policy Act of 1969 (NEPA): USACE will assess the environmental impacts of the proposed action in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. Section 4371 et. seq.), the Council on Environmental Quality's Regulations (40 C.F.R. Parts 1500-1508), and the USACE

Regulations (33 C.F.R. Part 230 and Part 325, Appendix B). Unless otherwise stated, the Environmental Assessment will describe only the impacts (direct, indirect, and cumulative) resulting from activities within USACE jurisdiction. The documents used in the preparation of the Environmental Assessment will be on file with the San Francisco District, Regulatory Branch, Eureka Field Office, 601 Startare Drive, Eureka, California.

Endangered Species Act of 1973 (ESA): Section 7 of the Endangered Species Act requires formal consultation with the U.S. Fish and Wildlife Service (FWS) and/or the National Marine Fisheries Service (NMFS) if a USACE permitted project may adversely affect any Federally listed threatened or endangered species or its designated critical habitat. USACE will initiate consultation with the FWS for impacts to the tidewater goby (*Eucyclogobius newberryi*), snowy plover (*Charadrius alexandrinus nivosus*), Oregon silverspot butterfly (*Speyeria zerene hippolyta*), western lily (*Lilium occidentale*), and California brown pelican (*Pelecanus occidentalis californicus*). USACE has not yet determined whether the project would have an affect on federally threatened coho salmon; if so, USACE will also inititate consultation with NMFS.

Magnuson-Stevens Fisheries Conservation and Management Act: Essential Fish Habitat - The Magnuson-Stevens Fishery Conservation and Management Act requires all Federal agencies to consult with the National Marine Fisheries Service (NMFS) on all actions, or proposed actions permitted by the agency that may adversely affect Essential Fish Habitat (EFH). This notice initiates the EFH consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The proposed project would temporarily impact approximately 1500 acres of EFH for various life stages of fish species managed under the Pacific Salmon Fishery Management Plan (especially coho and Chinook salmon). USACE initial determination is that the proposed action would not have a substantial adverse impact on EFH or federally managed fisheries in California Waters. Our final

determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the NMFS.

Clean Water Act of 1972 (CWA): State water quality certification or a waiver is a prerequisite for the issuance of a Department of the Army permit to conduct any activity which may result in a fill or pollutant discharge into waters of the United States, pursuant to Section 401 of the Clean Water Act (33 U.S.C. § 1341). The County has recently submitted an application to the Regional Water Quality Control Board (RWQCB) to obtain water quality certification for the project. No Department of the Army permit will be issued until the County obtains the required certification or a waiver of certification. A waiver can be explicit, or it may be presumed if the RWQCB fails or refuses to act on a complete application for water quality certification within 60 days of receipt, unless the District Engineer determines a shorter or longer period is a reasonable time for the RWQCB to act.

Those parties concerned with any water quality issue that may be associated with this project should write to the Executive Officer, California Regional Water Quality Control Board, North Coast Region, 5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403, by the close of the comment period of this Public Notice.

Coastal Zone Management Act of 1972 (CZMA): Section 307(c) of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1456(c)) requires a non-federal applicant seeking a federal license or permit to conduct any activity occurring in or affecting the coastal zone to furnish a certification that indicates the activity conforms with the State's coastal zone management program. Generally, no federal license or permit will be issued until the appropriate State agency has concurred with the certification statement or has waived its right to do so. Since the project occurs in the coastal zone or may affect coastal zone resources, the County is hereby advised to apply for a permit from the California Coastal Commission.

National Historic Preservation Act of 1966 (NHPA): Based on a review of survey data on file with various City, State and Federal agencies, no historic or archeological resources are known to occur in the project vicinity. If unrecorded resources are discovered during construction of the project, operations will be suspended until USACE completes consultation with the State Historic Preservation Office (SHPO) in accordance with Section 106 of the National Historic Preservation Act.

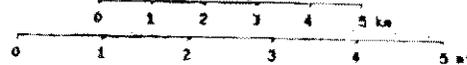
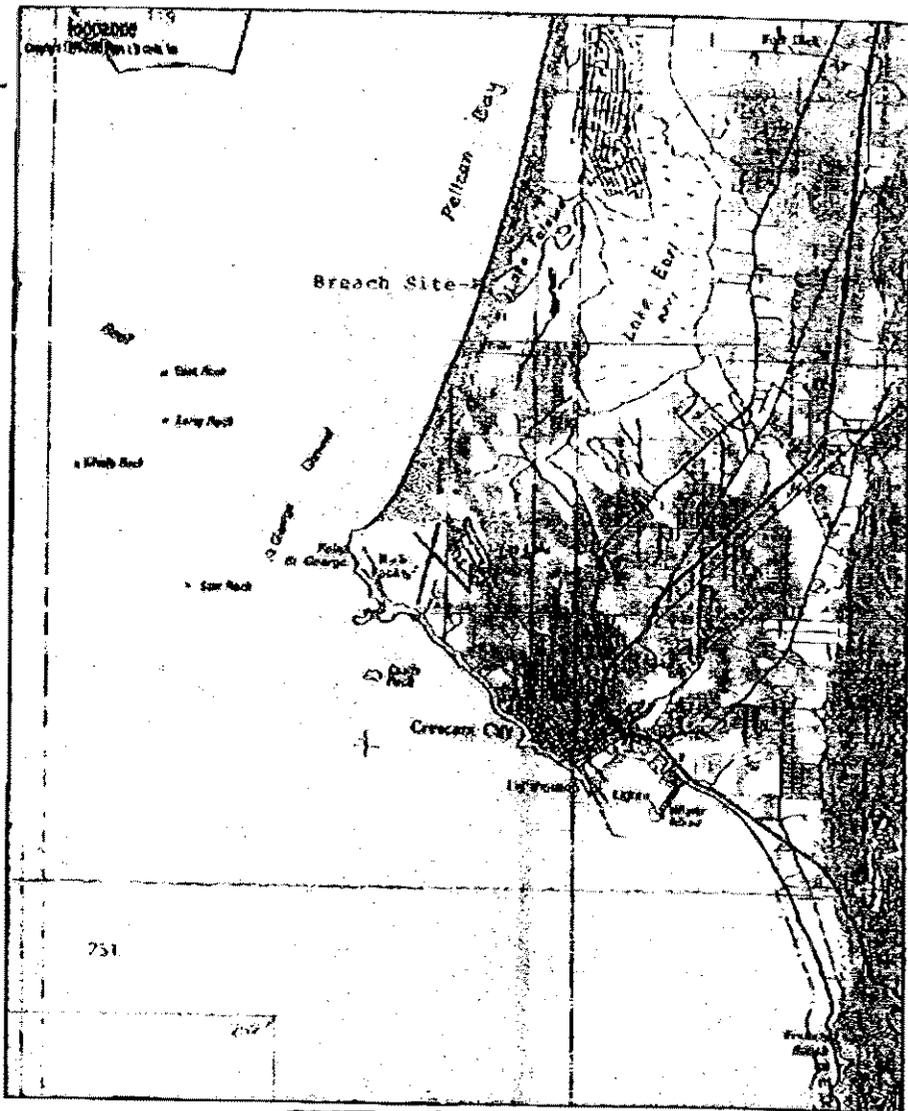
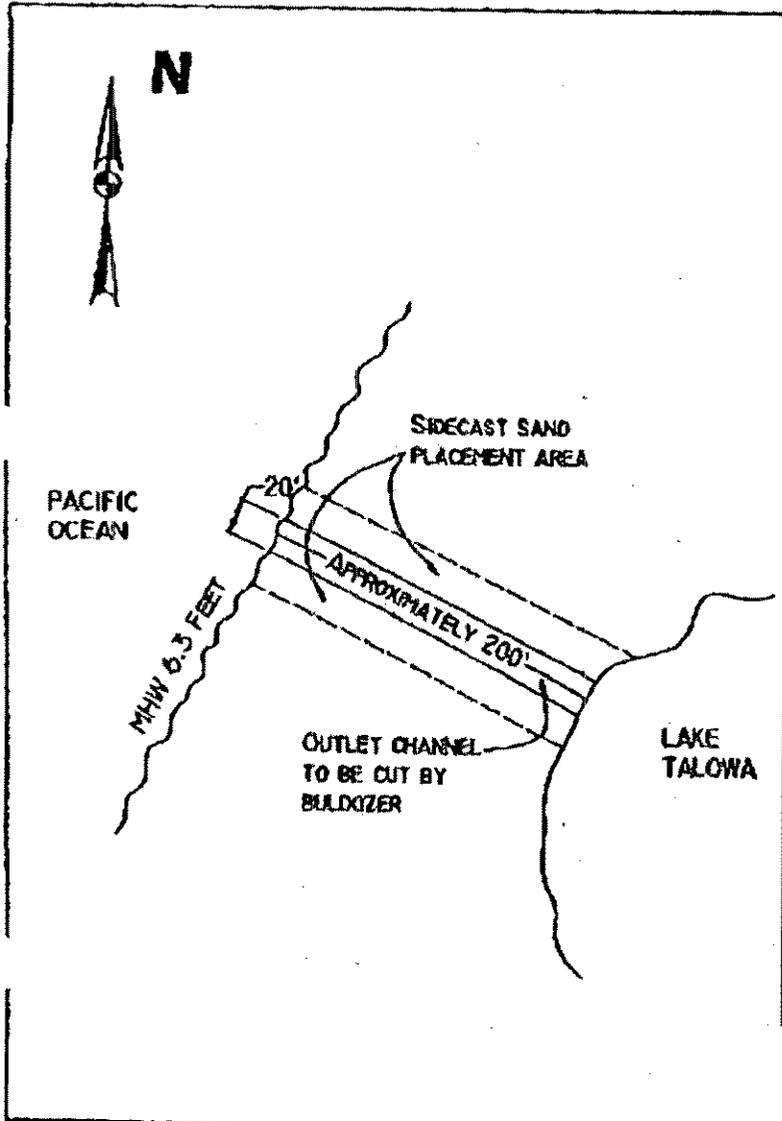
4. COMPLIANCE WITH THE 404(b)(1) GUIDELINES: Projects resulting in discharges of dredged or fill material into waters of the United States must comply with the Guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b) of the Clean Water Act (33 U.S.C. § 1344(b)). An evaluation pursuant to the Guidelines indicates the project is dependent on location in or proximity to waters of the United States to achieve the basic project purpose of flood reduction. This conclusion raises the (rebuttable) presumption of the availability of a practicable alternative to the project that would result in less adverse impact to the aquatic ecosystem, while not causing other major adverse environmental consequences. The County has been informed to submit an analysis of project alternatives to be reviewed for compliance with the Guidelines.

5. PUBLIC INTEREST EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impact, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits that reasonably may be expected to accrue from the proposed activity must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered, including its cumulative effects. Among those factors 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, considerations of property ownership, and, in general, the needs and welfare of the people.

6. CONSIDERATION OF COMMENTS: USACE 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 USACE to determine whether to issue, 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 in the proposed activity.

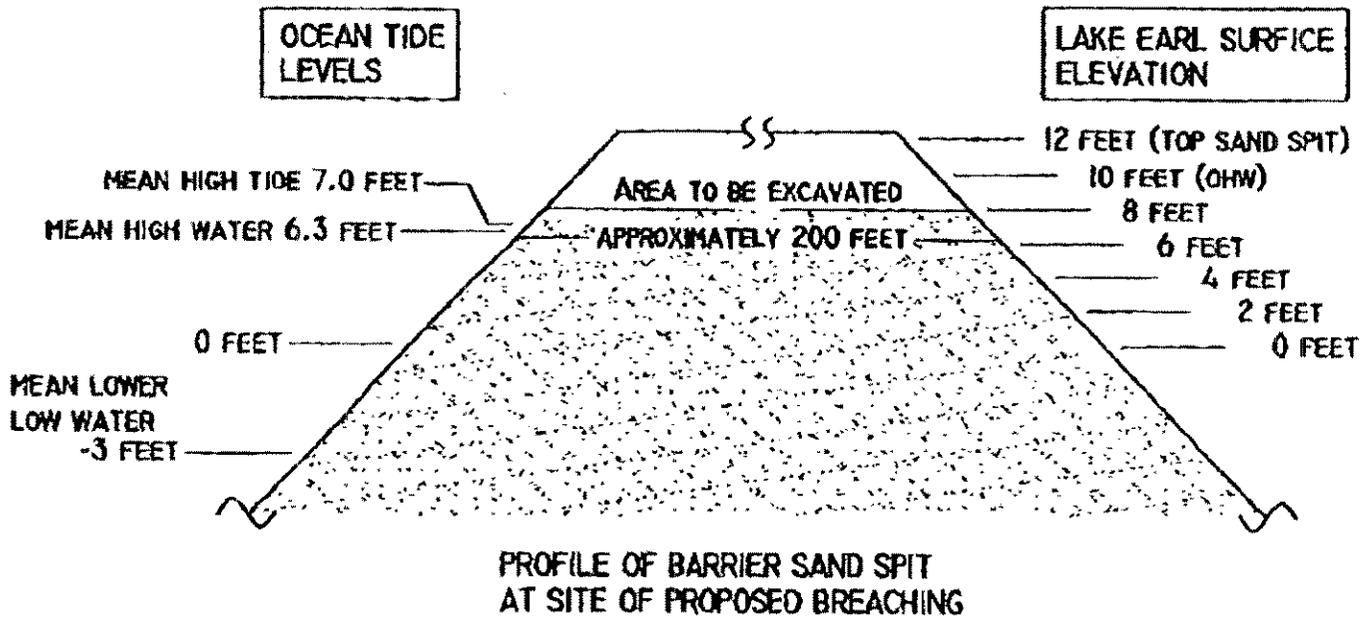
7. SUBMISSION OF COMMENTS: During the specified comment period, interested parties may submit written comments to the San Francisco District, Regulatory Branch, Eureka Field Office, P.O. Box 4863, Eureka, California 95502, citing the applicant's name and Public Notice Number in the letter. Comments may include a request for a public hearing on the proposed activity prior to a determination on the permit application; such requests shall state, with particularity, the reasons for holding a public hearing. All comments will be forwarded to the County for resolution or rebuttal. Additional information may be obtained by contacting the County, the POC of which is indicated in the first paragraph of this Public Notice, or by contacting Mr. Kelley Reid of the Eureka Field Office at 707-443-0855 or e-mail at kelley.e.reid@usace.army.mil.



PURPOSE: PREVENT FLOODING OF PUBLIC ROADS AND WELLS
DATUM: MHW
ADJACENT LANDOWNERS: CA STATE LANDS COMPL.
 CA DEPT. OF PARKS AND RECREATION
 PACIFIC SHORES S/D LANDOWNERS

PLAN VIEW
 0 100 200
 1"=100'
 CA. DEPT. OF FISH AND GAME
 619 2ND STREET
 EUREKA, CA 95531
 AND
 DEL NORTE COUNTY

M=16.546
 G=-0.82
PROPOSED BREACHING OF LAKE EARL b.
 CUTTING A CHANNEL TO THE OCEAN.
LOCATION: LAKE EARL, SMILES NORTH
 OF CRESCENT CITY,
 DEL NORTE COUNTY, CA
APPLICANT: CA. DEPT. OF FISH AND GAME
 AND
 DEL NORTE COUNTY



USACE# 400433

PURPOSE: PREVENT FLOODING OF WELLS AND PUBLIC ROADS

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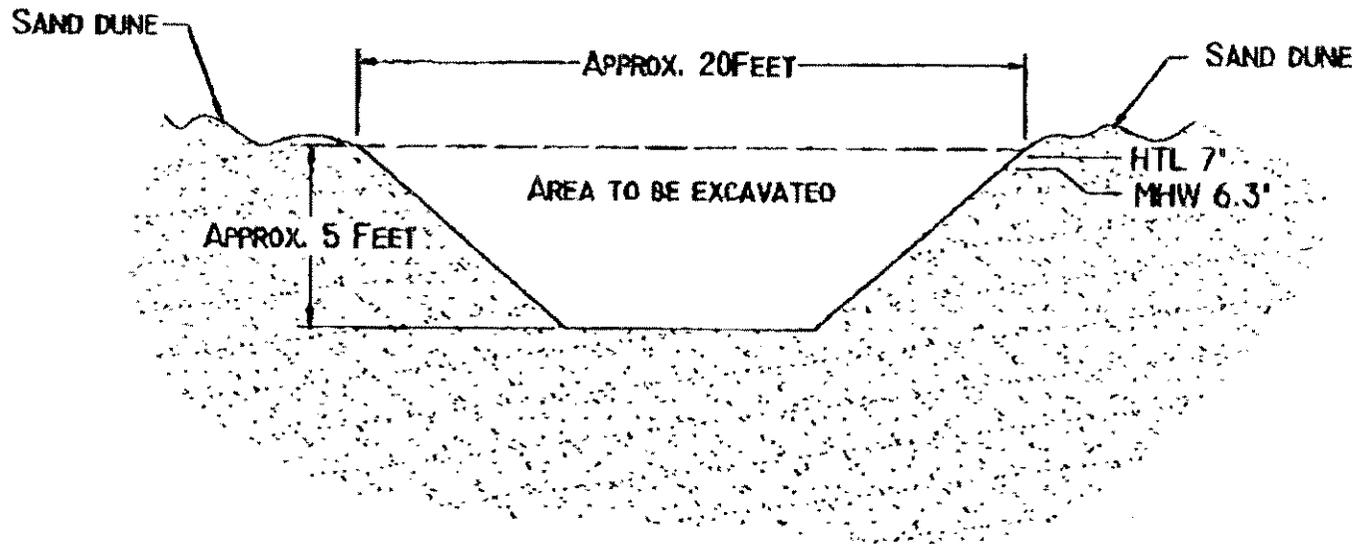
PROFILE VIEW



CA. DEPT. OF FISH AND GAME
619 2ND STREET
EUREKA, CA 95531
AND
DEL NORTE COUNTY

PROPOSED BREACHING OF LAKE EARL BY CUTTING A CHANNEL TO THE OCEAN.
LOCATION: LAKE EARL, 5 MILES NORTH OF CRESCENT CITY, DEL NORTE COUNTY, CA

APPLICANT: CA. DEPT. OF FISH AND GAME AND DEL NORTE COUNTY



PURPOSE: PREVENT FLOODING OF WELLS AND PUBLIC ROADS

DATUM: MHW

CROSSECTION



CA. DEPT. OF FISH AND GAME
 619 2ND STREET
 EUREKA, CA 95531
 AND
 DEL NORTE COUNTY

PROPOSED BREACHING OF LAKE EARL BY CUTTING A CHANNEL TO THE OCEAN.

LOCATION: LAKE EARL, 5 MILES NORTH OF CRESCENT CITY, DEL NORTE COUNTY, CA

APPLICANT: CA. DEPT. OF FISH AND GAME AND

DEL NORTE COUNTY

3 OF 3