



US Army Corps
of Engineers.

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

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Regulatory Branch
333 Market Street
San Francisco, CA 94105-2197

RESPONSE REQUIRED BY: March 2, 2003

PERMIT MANAGER: David A. Ammerman PHONE: 707-443-0855 dammerman@spd.usace.army.mil

1. **INTRODUCTION:** The California Department of Parks and Recreation, Benbow Lake State Recreation Area, P.O. Box 2006, Eureka, California 95502, (Contact Mr. Douglas Correia at 707-445-6547) has applied for a Department of the Army permit to discharge fill into waters of the United States in connection with the annual installation and removal of Benbow Dam, construction of an access road, grading of a riverbank shoreline beach and other activities related to Benbow Dam installation over a five year period (2003 to 2007). The summer dam is located on the South Fork of the Eel River on state park lands, approximately three miles south of Garberville and west of Highway 101, in Humboldt County, California. This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344).

2. **PROJECT DESCRIPTION:** As shown in the attached drawings (Sheets 1 through 7), the applicant would install and operate Benbow Dam between June 15 and September 15 on an annual basis for five summer seasons (2003 to 2007). The South Fork Eel River within Benbow Lake State Recreation Area would be impounded behind Benbow Dam by steel I-beams and flashboards (combination steel and wooden flashboards) installed into slots and raised on top of the existing concrete dam. In addition to seasonal dam installation, ancillary work includes the following:

Access Roads (Sheets 2 of 7 and 3 of 7) Construct two stream crossings and grade a river bar access road to the dam prior to dam installation. Both of the stream crossings are temporary fords (no bridges or culverts would be required, vehicles and equipment would merely drive across the channel). One crosses the East Branch tributary to the South Fork Eel and the other crosses the South Fork Eel at low flow periods. The upstream access road connects the day use area on the right bank with the maintenance road, leading to the dam, on the left bank. The traffic on the upstream temporary access road would be limited to the movement of the following vehicles: a bulldozer and motor grader or excavator and three service pickup trucks. The heavy equipment would cross the fords twice while the pickups would cross the fords twice each work day. The access would be graded smooth for a linear distance of approximately 2,900 feet or 0.50 mile. Approximately 90 cubic yards of gravel or other river substrate would be displaced during grading of the access road.

Sediment removal from flashboard slots (Sheets 3 of 7, 5 of 7, and 6 of 7) Prior to installation of the flashboards, the flashboard slots would be cleaned of winter gravel/sediment accumulation with the use of a waterborne or land-based 6-inch diameter suction dredge. The excavated material would be discharged immediately downstream of the dam in the South Fork Eel riverbed.

Fish Passage Channel (Sheet 4 of 7) Prior to installation of the dam, the applicant states it may be necessary to create a fish passage channel immediately downstream of the dam depending on winter sediment accumulations on the river bed. The channel would be constructed between the fish ladder entrance on the left bank of the downstream side of the dam and the main channel of the South Fork Eel. A channel 10 feet wide by 3 or 4 feet deep and approximately 170-200 lineal feet long would be constructed with an excavator. The excavated material would be side cast along the entire length of the right side of the channel where a 12 foot wide gravel/river substrate berm would be formed. The applicant estimates that 160 CY of gravel would be removed to form the fish passage channel and berm. The berm would be constructed in a trapezoidal shape approximately 170-200 linear feet long by an average of 12 feet wide at the base, six feet wide at the top, and 3-4 feet in height.

Beach shaping (Sheets 3 of 7 and 7 of 7) Prior to installation of the dam, approximately 1,000 lineal feet of river shoreline below the Ordinary High Water mark of the South Fork Eel would be graded smooth to form a safe means for park visitors to access the lake. The applicant estimates that approximately 1,000 CY of river substrate would be displaced during riverbank shoreline grading depending on winter sediment and gravel accumulations.

Downstream ford (Sheet 2 of 7) At the end of the summer season, it may be necessary to use a temporary ford immediately down stream of the dam site for access to complete flashboard removal and clean up of the dam site. This ford would be crossed only with service equipment twice each day for approximately four days. The estimated length of the downstream access road between Benbow Lake Road and the dam would be approximately 600-800 lineal feet.

Benbow Dam Installation (Sheets 5 of 7 and 6 of 7)

Vertical I-beams are installed by an overhead cable and winch system into recessed pockets on the crest of the dam. A combination of steel and redwood flashboards are then placed between the I-beams across the length of the dam crest bringing the maximum water surface elevation to about 357 feet above mean sea level. The dam impoundment creates a 1,060 acre-foot reservoir with a surface area of 123 acres. When the reservoir is full, the impoundment area extends approximately 1.3 miles upstream from the dam near the confluence with Fish Creek. The maximum depth in the reservoir (20 feet) occurs immediately upstream of the dam in the vicinity of the low flow slot where sediment is regularly scoured by winter flows. Depths elsewhere along the reservoir are less due to sediment accumulation and topographic features. Dam installation and removal dates are based on recommendations from a fisheries study completed for the California Department of Parks and Recreation (CDPR) in the Benbow lake SRA (Roelofs *et al* 1993). The operation of Benbow Dam from 2003 through 2007 consists of annual dam installation, dam operation, and dam removal. The dam is installed on or after June 15 when all of the following criteria are met: (a) river flow at Benbow Dam is below 200 cubic feet per second (cfs); (b) water temperature daily maxima at Benbow Dam exceed 23 degrees C for three consecutive days; and (c) diving observations find less than 20 0+ (less than 1 year old) juvenile chinook salmon in the reach between Twin Bridge and the rip-rap below the Fish Creek confluence. Each year the dam is removed by September 15 or when river flow exceeds 150 cfs at Miranda Gage, whichever comes first.

Permit History: Corps of Engineers Permit No. 21880N15, for the summer operation of Benbow Dam, was issued on May 10, 1996. That permit expired on October 1, 2001. On June 5, 2002, the Corps issued Permit No. 24316N to the California Department of Parks and Recreation for repair of Benbow Dam during the 2002 summer season. That

project involved construction of temporary construction access roads and river crossings, excavation by hydraulic dredge of 500 to 1,500 cubic yards (CY) of river gravel at the dam including the flashboard slots, and dispose of excavated material on a river terrace adjacent to the dam, construct a temporary silting basin downstream of the dam, install a steel and fabric water diversion structure at the dam, install a cofferdam, and install steel armor plating, flashboards and cable gantry improvements. The permit was authorized under Nationwide Permit No. 3, Maintenance.

3. PROJECT PURPOSE: The basic purpose of the described project is the creation of a seasonal summer lake on the South Fork Eel River. The lake provides a unique setting for water-related recreation in southern Humboldt County. The tourism industry of the Garberville area and environs relies upon this lake as a visitor destination site. Numerous community events and programs depend upon the lake's existence (Red Cross swimming lessons, area youth programs and special events along its shoreline). The Shakespearean Festival, Jazz on the Lake and the Summer Arts festival all use the lake side as a scenic venue. There also several day use areas available for visitors (picnic areas).

4. STATE APPROVALS: Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), an applicant for a Corps permit must obtain a State water quality certification before a Corps permit may be issued. This Public Notice notifies the applicant that, unless he provides the Corps with evidence of a valid request for state water quality certification to the Regional Water Quality Control Board, North Coast Region, within 30 days of the date of this public notice, the Corps may consider this application withdrawn. No Corps permit will be granted until the applicant obtains the required certification. The water quality certification will be deemed to have occurred if the State fails or refuses to act on a valid request for certification within 60 days after the

receipt of a valid request, unless the District Engineer determines a shorter or longer period is reasonable for the State to act.

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

5. COMPLIANCE WITH OTHER FEDERAL LAWS: The Corps of Engineers will assess the environmental impacts of the action proposed in accordance with the requirements of the National Environmental Policy Act of 1969 (Public law 91-190), and pursuant to the Council on Environmental Quality's Regulations, 40 CFR 1500-1508, and the Corps of Engineers' Regulations, 33 CFR 230 and 325, Appendix B. The documents used in the preparation of the Environmental Assessment will be on file in the Regulatory Branch, Eureka Field Office, Woodley Island, 600 Startare Drive, Eureka, California.

Endangered Species - The project site (South Fork of the Eel River and its tributaries) is a migratory rearing corridor for adult and juvenile stages of anadromous coho salmon (*Oncorhynchus kisutch*), chinook salmon (*O. tshawytscha*), and steelhead (*O. mykiss*). All three anadromous fish species are listed as threatened by the National Marine Fisheries Service (NOAA Fisheries) pursuant to Section 7 of the Federal Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 et seq.). The South Fork of the Eel River and its tributaries are also designated as critical habitat for the coho salmon and chinook salmon by NOAA Fisheries. The Corps of Engineers initiated formal Section 7 consultation with the NOAA Fisheries on October 22, 2001 regarding the Benbow Dam installation and operations potential impacts on listed species and critical habitat. On

March 27, 2002, NOAA Fisheries issued the biological opinion for the above project in the document titled, *Biological Opinion, Repair of Benbow Dam in 2002 and Operation of Benbow Dam From 2003 through 2007*. In that opinion, NOAA Fisheries determined that the repair of Benbow Dam in 2002 and the installation and operation of Benbow Dam from 2003 to 2007 is not likely to jeopardize the continued existence of the Southern Oregon/Northern California Coastal (SONCC) coho salmon, California Coastal (CC) chinook salmon, and Northern California (NC) steelhead; and is not likely to destroy or adversely modify coho salmon and chinook salmon critical habitat. The non-jeopardy opinion is conditional on the Corps of Engineers and C DPR complying with the Incidental Take Statement, Reasonable and Prudent Measures, and Terms and Conditions of the biological opinion. The terms and conditions of the above biological opinion have been added as special conditions to Permit No. 24316N for the repair of Benbow Dam in 2002. These special conditions for the repair of Benbow Dam have been implemented and as of the date of this Public Notice, have been complied with by the Corps and C DPR. In addition, the Corps intends to add the biological opinion's terms and conditions to any Corps permit issued for the proposed installation and continued operation of Benbow Dam from 2003 through 2007, unless new information that comes forward in response to the Corps Public Notice warrants changes to the NOAA Fisheries Terms and Conditions or warrants re-initiation of Section consultation with NOAA Fisheries.

In addition to Endangered Species Act consultation, the Corps initiated consultation on October 22, 2001 with NOAA Fisheries on Essential Fish Habitat (EFH) pursuant to Section 305(b)(2) of the Magnuson-Stevens Fisheries Conservation and Management Act (MSFCMA). The South Fork of the Eel River is EFH for coho salmon and chinook salmon. The NOAA Fisheries in response to the

MSFCMA consultation, stated in the Biological Opinion that the proposed Benbow Dam Installation and Operation may adversely affect the EFH of coho salmon and chinook salmon, which can be minimized by complying with Reasonable and Prudent Measures 1,2,3,4, and 5 and their implementing terms and conditions identified in the Biological Opinion.

Benbow Lake State Recreation Area is within the vicinity of suitable habitat (old growth Redwood forest along the South Fork Eel) for marbled murrelet (*Brachyramphus marmoratus*) and the northern spotted owl (*Strix occidentalis*). The Corps of Engineers initiated informal Section 7 consultation with the U.S. Fish and Wildlife Service (USFWS) regarding potential impacts of the above project on the two terrestrial listed birds. The USFWS, by letter dated May 22, 2002, concurred with the Corps' determination that installation and operation of Benbow Dam between 2003 and 2007 may affect but would not likely adversely affect the Northern spotted owl or marbled murrelet.

6. EVALUATION OF ALTERNATIVES: Evaluation of this activity's impacts includes application of the guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b)(1) of the Clean Water Act (33 U.S.C. 1344(b)). An evaluation was made by this office under the 404(b)(1) guidelines and it was determined that the proposed project is water dependent.

7. PUBLIC INTEREST EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts that the proposed activity may have on the public interest requires a careful weighing of all those factors that become relevant in each particular case. The benefits that reasonably may be expected to accrue from the proposal must be

balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process. That decision will reflect the national concern for both protection and utilization of important resources. All factors that may be relevant to the proposal must be considered including the cumulative effects thereof. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore 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.

notice and should be forwarded so as to reach this office within the comment period specified on page one of this notice. Comments should be sent to Lieutenant Colonel Michael McCormick, District Engineer, San Francisco District, U.S. Army Corps of Engineers, 333 Market Street, San Francisco, California. It is Corps policy to forward any such comments that include objections to the applicant for resolution or rebuttal. Any person may also request, in writing, within the comment period of 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. Additional details may be obtained by contacting the applicant whose address is indicated in the first paragraph of this notice, or by contacting David Ammerman of our Regulatory Branch, Eureka Field Office at telephone 707-443-0855 or by E-mail at: dammerman@spd.usace.army.mil. Details on any changes of a minor nature that are made in the final permit action will be provided on request.

8. CONSIDERATION OF COMMENTS: The Corps of Engineers 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 of Engineers 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.

9. SUBMISSION OF COMMENTS: Interested parties may submit in writing any comments concerning this activity. Comments should include the applicant's name, the number, and the date of this