



US Army Corps
of Engineers

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

US Army Corps
of Engineers

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

NUMBER: 27723N DATE: March 28, 2003
RESPONSE REQUIRED BY: March 31, 2003

fax to 707-443-7728

PERMIT MANAGER: Kelley Reid

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1. INTRODUCTION: The County of Del Norte County, 981 'H' Street, Crescent City, California 95531, (Contact Mr. Jay Sarina at (707) 464-7254) has applied for a Department of the Army permit under emergency procedures to breach Lake Earl Sec 31 T17N-R1W HBM Crescent City Quad. The California Department of Fish and Game manages the lakes and breach site and has chosen to be a co-applicant for this project. This application was received on March 24, and is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

2. PROJECT DESCRIPTION: As shown in the attached drawings, the county plans to breach the sandbar between the ocean and Lakes Earl and Talawa in order to reduce the risk of flooding to local residents and roads. A tractor will be used to cut a trough in the sandbar between the lakes and the ocean. The trough will have a slight gradient towards the sea. The flow of water in the trench will gradually increase until the sandbar breaches. Subsequent storm surges are anticipated to reseal the breach and allow the lake to begin refilling.

As of March 24, 2003, the Lake has risen high enough to be a barrier to some emergency vehicles. This proposed breach is to alleviate the immediate risk to local residents that may arise from restricted access.

Please see the attached maps and diagrams for

additional information.

Although the County requested the application be reviewed under 'emergency procedures,' the County has not demonstrated that the current situation results "in an unacceptable hazard to life, a significant loss of property, or an immediate, unforeseen, and significant economic hardship..."

As a separate project, the Corps is also evaluating a proposal to manage Lakes Earl and Talawa at the 5-foot contour and to breach the same sandbar as needed to maintain the 5-foot lake level. That proposal was announced on April 10, 2002; comments were received. That application was suspended in October 2002 and recently re-activated.

3. SITE DESCRIPTION: The name, Lake Earl sometimes describes both basins and sometimes the larger. The two basins are connected by a deep (18 feet) narrow channel and are pair of coastal lagoons separated from the Pacific Ocean by a narrow unvegetated beach strand and active sand dune. Lake Talawa, the smaller of the two basins is also closer to the Pacific Ocean.

Depending on currents, tides, winds, and other climatic conditions, the strand and dune separating Lake Talawa from the Pacific Ocean may rise to 15 feet Mean Seal Level (MSL), but usually reaches 10-12 feet MSL. Consistently since 1976, and intermittently before, the sand barrier has been breached during the winter months, allowing the lagoon's water to flow into the Pacific Ocean. Since

1991, the staff at the Lake Earl Wildlife Area has maintained records on water levels and breach timing. Although local landowners have breached the barrier over the past 70-100 years to drain the lake, historical records are inconsistent. Since European descendents began colonizing the area, the practice of draining the lakes seems to have been to maintain additional pastureland around the lake, although there were many years when an elevated lake level was maintained for lumber interests.

4. **PURPOSE AND NEED:** The applicants state that the purpose of the breach is to maintain access for emergency vehicles to residents in the Kellogg Road area.

5. **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 or waiver before a Corps permit may be issued. The applicant has provided the Corps with evidence that he has submitted a valid request for State water quality certification to the North Coast Regional Water Quality Board. No Corps permit will be granted until the applicant obtains the required certification. A 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, North Coast Region, 5550 Skylane Boulevard, Santa Rosa, California 95403-1064, by the close of the comment period of this public notice.

6. **ENVIRONMENTAL ASSESSMENT:** 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 Council on Environmental Quality's Regulations, 40 CFR 1500-1508, and Corps of Engineers' Regulations, 33 CFR 230 and 325, Appendix B. Unless otherwise stated, the Environmental Assessment will describe only the impacts (direct, indirect, and cumulative) resulting from activities within the jurisdiction of the Corps of Engineers. The documents used in the preparation of the Environmental Assessment will be on file in the Regulatory Branch, Corps of Engineers, 333 Market Street, San Francisco, California.

7. **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.

8. **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, which 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.

9. 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 at 33CFR 320.4(a).

10. 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 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 the Regulatory Branch. 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 Kelley Reid of our office at telephone 707.443.0855 or e-mail: kelly.reid@spd02.usace.army.mil. Details on any changes of a minor nature, which are made in the final permit action, will be provided on request.

