

PUBLIC NOTICE



**US Army Corps
of Engineers
Kansas City District**

**Permit No. 200401687
Issue Date: July 14, 2004
Expiration Date: August 13, 2004**

30-Day Notice

JOINT PUBLIC NOTICE: This public notice is issued jointly by the Kansas City District, Corps of Engineers, and the Nebraska Department of Environmental Quality. The Nebraska Department of Environmental Quality will use the comments to this notice in deciding whether to grant Section 401 water quality certification. If you furnish comments to this public notice, please also furnish a copy of you comments to the Nebraska Department of Environmental Quality, Water Quality Division, Surface Water Section, Post Office Box 98922, State House Station, Lincoln, Nebraska 68509-9822.

APPLICANT: Kansas City District Corps of Engineers
700 Federal Building
601 East 12th Street
Kansas City, MO 64106-2896

PROJECT LOCATION (As shown on the attached drawings): Patterson Cove of Harlan County Lake, in Section 22, Township 1 north, Range 17 west, Harlan County, Nebraska.
Latitude 40-02-38N - Longitude 99-13-44W (REPUBLICAN CITY QUAD)

AUTHORITY: Section 404 of the Clean Water Act (33 USC 1344) and 33 Code of Federal Regulations 337 (CFR). This CFR applies to regulatory practices and procedures for operations and maintenance activities by the Corps involving the discharge of dredged or fill material in waters of the United States.

Harlan County Lake was authorized by Flood Control Act of 1941, Public Law 228, 77th Congress, as a part of the Missouri River Basin Comprehensive Plan. The Comprehensive Plan includes projects for flood control, irrigation, and other purposes. The Flood Control Act of 1944 authorized project purposes of flood control, irrigation (operated by the Bureau of Reclamation), fish and wildlife, and recreation. The irrigation purpose was adopted for Harlan County Lake in accordance with the 1944 Act. The project became operational in December 1951.

ACTIVITY (As shown on the attached drawings): Emergency Dredging Authority to begin work on this project was granted in accordance with 33CFR 337.7. The Kansas City District proposes to dredge an area of approximately 380,200 square feet for a boat access channel to, and removal of silt in the vicinity of, the Patterson Harbor Marina. The dredge material totaling 27,000 cubic yards of silt and clay fill would be placed into a constructed containment structure located below the ordinary high water mark (OHWM), in a cove adjacent to Patterson Creek.

Approximately 4 acres of adjacent wetlands would also be filled by the proposed placement of the dredged material into the containment structure. The project purpose is to maintain public boat access to the Patterson Harbor Marina area.

The dredging activities for the proposed project are not subject to 404 of the Clean Water Act. The construction of the containment dike and the discharge of dredge or fill material below the OHWM, and into adjacent wetlands of Harlan County Lake, as well as the discharge of dredge return water are all subject to Section 404 of the Clean Water Act. The OHWM of Harlan County Lake is established at elevation 1949 feet mean sea level (msl), which is three feet above the conservation pool. The wetland boundary within the proposed fill site was delineated at an elevation of approximately 1948.5 msl.

WETLANDS: Approximately 4 acres of seasonally inundated emergent wetlands would be filled by this activity.

ADDITIONAL INFORMATION: Additional information about this application may be obtained by contacting **Luke M. Cory, Kanopolis Satellite Office, 107 Riverside Drive, Marquette, Kansas 67464, telephone 785-546-2130 (FAX 785-546-2050) or via email at luke.m.cory@usace.army.mil**. All comments to this public notice should be directed to the above address.

CULTURAL RESOURCES: Kansas City District will comply with the National Historic Preservation Act of 1966 and 36 CFR 800. We have checked the National Register of Historic Places and the Federal Register and no property listed in the Register or proposed for listing is located in the permit area. This is the extent of our knowledge about historic properties in the permit area at this time. However, we will evaluate input by the State Historic Preservation Officer and the public in response to this public notice, and we may conduct or require a reconnaissance survey of the permit area to check for unknown historic properties, if warranted.

ENDANGERED SPECIES: The proposed activity is located within the migratory range of the following Federally listed threatened and endangered species: peregrine falcon (*falco peregrinus*), whooping crane (*Grus Americana*), interior least tern (*Sterna antillarum*), piping plover (*Charadrius melodus*), and the bald eagle (*Haliaeetus leucocephalus*). In addition, the bald eagle is known to nest and winter on Harlan County Lake. Eagles typically use large live trees and snags located along major watercourses for perches, roosts, and potential nesting sites. No large trees or known nesting sites will be impacted by this proposed activity.

In compliance with the Endangered Species Act, a preliminary determination has been made that the described work will not affect species designated as threatened or endangered or adversely affect critical habitat. In order to complete our evaluation of this activity, comments are solicited from the U.S. Fish and Wildlife Service and other interested agencies and individuals.

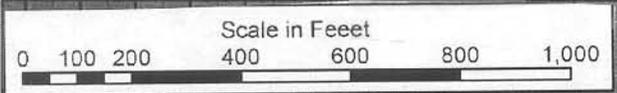
FLOODPLAINS: This activity is being reviewed in accordance with Executive Order 11988, Floodplain Management, which discourages direct or indirect support of floodplain development whenever there is a practicable alternative. By this public notice, comments are requested from individuals and agencies that believe the described work will adversely impact the floodplain.

WATER QUALITY CERTIFICATION: Section 401 of the Clean Water Act (33 USC 1341) requires that all discharges of dredged or fill material must be certified by the appropriate state agency as complying with applicable effluent limitations and water quality standards. This public notice serves as an application to the state in which the discharge site is located for certification of the discharge. The discharge must be certified before a Department of the Army permit can be issued. Certification, if issued, expresses the state's opinion that the discharge will not violate applicable water quality standards.

PUBLIC INTEREST REVIEW: The decision to issue a permit will be based on an evaluation of the probable impact including the cumulative impacts 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 which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, esthetics, general environmental concerns, wetlands, cultural values, 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 and, in general, the needs and welfare of the people. The evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency under authority of Section 404(b) of the Clean Water Act (33 USC 1344). 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 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.

COMMENTS: This notice is provided to outline details of the above-described activity so this District may consider all pertinent comments prior to determining if issuance of a permit would be in the public interest. Any interested party is invited to submit to this office written facts or objections relative to the activity on or before the public notice expiration date. Comments both favorable and unfavorable will be accepted and made a part of the record and will receive full consideration in determining whether it would be in the public interest to issue the Department of the Army permit. Copies of all comments, including names and addresses of commenters, may be provided to the applicant. Comments should be mailed to the address shown on page 2 of this public notice.

PUBLIC HEARING: Any person may request, in writing, prior to the expiration date of this public notice, that a public hearing be held to consider this application. Such requests shall state, with particularity, the reasons for holding a public hearing.



Harlan County Lake

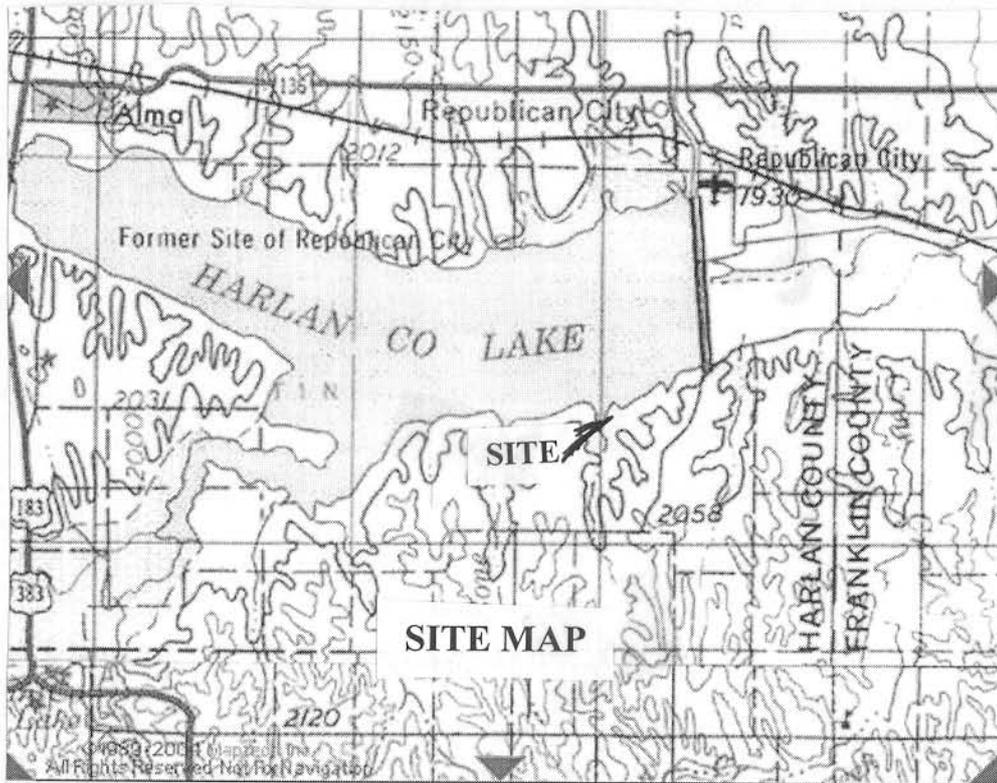
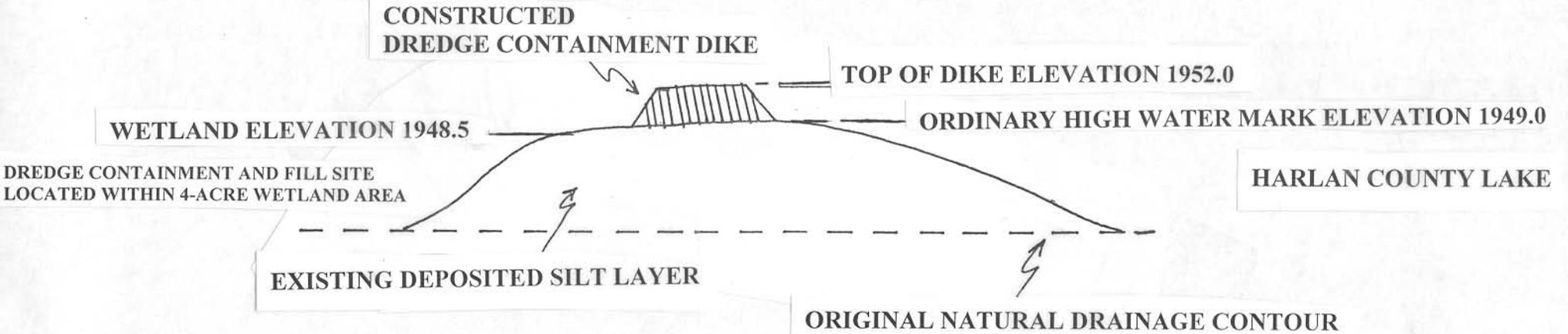
Patterson Harbor
2004 Dredging Estimates



Dredge Containment and Fill Site
located within 4-Acre Wetland Area

APPLICATION NO. 200401687
BY KANSAS CITY DISTRICT CORPS OF ENGINEERS
IN HARLAN COUNTY LAKE
IN HARLAN COUNTY, NEBRASKA
SHEET 1 OF 2

TYPICAL CROSS SECTION



APPLICATION NO. 200401687
BY KANSAS CITY DISTRICT CORPS OF ENGINEERS
IN HARLAN COUNTY LAKE
IN HARLAN COUNTY, NEBRASKA
SHEET 2 OF 2