



**US Army Corps
of Engineers**
Portland District

PUBLIC NOTICE

for Permit Application

Issue Date: August 30, 2004

Expiration Date: September 28, 2004

Corps of Engineers Action ID: 200400434

30-Day Notice

Oregon Department of State Lands Number: 32561-RP

Interested parties are hereby notified that an application has been received for a Department of the Army permit for certain work in waters of the United States, as described below and shown on the attached plan.

Comments: Comments on the described work should reference the U.S. Army Corps of Engineers number shown above and should reach this office no later than the above expiration date of this Public Notice to become part of the record and be considered in the decision. Comments should be mailed to the following address:

U.S. Army Corps of Engineers
CENWP-OP-GE (Ms. Lisa Grudzinski)
2201 North Broadway, Suite C
North Bend, Oregon 97459-2372

Applicant: Coos County Highway Department

Location: The project is located in Fahy Creek, River Mile 0.6 to 0.7, near Bandon, Coos County, Oregon, in Sections 8 and 17 of Township 28 South, Range 14 West. The project site is located within the Bandon Marsh National Wildlife Refuge (NWR).

Project Description:

The Coos County Highway Department is proposing to excavate up to 700 cubic yards (CY) of sediment and organics from a total of 400 linear feet of the main channel of Fahy Creek. Currently, water flow is restricted by accumulated sediment and excess water floods the adjacent North Bank road, resulting in unsafe driving conditions. Sediment would be removed to restore the waterway to the original dimensions of eight feet wide and six feet deep. The excavated material would be placed alongside the waterway on an existing dike, 20 feet wide and 7 feet tall. Approximately five feet of the bottom edges of the dike are located below the Ordinary High Water Mark (OHWM). The work would be accomplished using equipment working from existing dike. There is an existing tide gate located approximately one-half mile downstream on the Coquille River.

Purpose: To temporarily restore adequate water flow in the stream to reduce flooding on North Bank road. The NWR has indicated they are designing a future plan, which would provide a permanent solution to the flooding problem.

Drawing(s): Three (3) Drawings are included.

COE #200400434

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Additional Information: Additional information may be obtained from Ms. Lisa Grudzinski, Project Manager, U.S. Army Corps of Engineers at (541) 756-5316, or email lisa.a.grudzinski@nwp01.usace.army.mil.

Authority: This permit will be issued or denied under the following:

Section 10, Rivers and Harbors Act 1899 (33 U.S.C. 403), for work in or affecting navigable waters of the United States.

Section 404, Clean Water Act (33 U.S.C. 1344), for discharge of dredged or fill material into waters of the United States.

Sediment Testing: According to the Dredged Material Evaluation Framework, the Corps has made the preliminary determination that the removed sediment is suitable for in-water disposal and no further testing is required. Sediment is composed primarily of sand sized particles from local, upstream sources, and there are currently no known potential sources of contaminants in the vicinity of the project area. A final decision regarding sediment testing is pending.

Water Quality Certification: A permit for the described work will not be issued until certification, as required under Section 401 of the Clean Water Act (P.L. 95-217), has been received or is waived from the certifying state. Attached is the state's notice advertising the request for certification.

Section 404(b)(1) Evaluation: The impact of the activity on the public interest will be evaluated in accordance with the Environmental Protection Agency guidelines pursuant to Section 404(b)(1) of the Clean Water Act.

Coastal Zone Management Act Certification: A permit for the described work will not be issued until the state has concurred with the applicant's certification that the described activity affecting land or water uses in the Coastal Zone complies with the State Coastal Zone Management Program. Section 307(c)(3) of the Coastal Zone Management Act of 1972, as amended by 16 U.S.C. 1456(c)(3) requires the applicant to provide a Certification of Consistency statement. If the state fails to concur or object to the certification statement within six months, state concurrence shall be conclusively presumed. Attached to this Public Notice is a notice of application for Certification of Consistency with the State's Coastal Zone Management Program.

Public Hearing: Any person may request in writing within the comment period specified in 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.

Endangered Species: Preliminary determinations indicate that the proposed activity may affect an endangered or threatened species or its critical habitat. A conference under Section 7 of the Endangered Species Act of 1973 (87 Stat. 844) will be initiated. Preliminary determinations also indicated that the proposed activity may adversely modify Essential Fish Habitat. Consultation under Section 305 of the Magnuson-Stevens Fishery Conservation and Management Act will be initiated. A permit for the proposed activity will not be issued until the consultation process is completed.

Cultural Resources: The described activity is not located on property registered or eligible for registration in the latest published version of the National Register of Historic Places. This notice has been provided to the State Historic Preservation Office.

Evaluation: The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the described activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the described activity, must be balanced against its reasonably foreseeable detriments. All factors, which may be relevant to the described activity will be considered including the cumulative effects thereof; among those 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, consideration of property ownership and, in general, the needs and welfare of the people.

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.

Additional Requirements: State law requires that leases, easements, or permits be obtained for certain works or activity in the described waters. These State requirements must be met, where applicable, and a Department of the Army permit must be obtained before any work within the applicable Statutory Authority, previously indicated, may be accomplished. Other local governmental agencies may also have ordinances or requirements, which must be satisfied before the work is accomplished.

Oregon Department of Environmental Quality (DEQ) Water Quality 401 Certification

Corps of Engineers Action ID Number: 200400434

Notice Issued: August 30, 2004

Oregon Department of State Lands Number: 32561-RP Written Comments Due: September 28, 2004

WHO IS THE APPLICANT: Coos County Highway Department

LOCATION OF CERTIFICATION ACTIVITY: See attached U.S. Army Corps of Engineers public notice.

WHAT IS PROPOSED: See attached U.S. Army Corps of Engineers public notice on the proposed project.

NEED FOR CERTIFICATION: Section 401 of the Federal Clean Water Act requires applicants for Federal permits or licenses to provide the Federal agency a water quality certification from the State of Oregon if the proposed activity may result in a discharge to surface waters.

DESCRIPTION OF DISCHARGES: See attached U.S. Army Corps of Engineers public notice on the proposed project.

WHERE TO FIND DOCUMENTS: Documents and related material are available for examination and copying at Oregon Department of Environmental Quality, Water Quality Division, 811 S.W. Sixth Avenue, Portland, Oregon 97204-1390.

While not required, scheduling an appointment will ensure documents are readily accessible during your visit. To schedule an appointment please call Ms. Alice Kavajecz at (503) 229-6962.

Any questions on the proposed certification may be addressed to the 401 Program Coordinator at (503) 229-5846.

PUBLIC PARTICIPATION:

Public Hearing: Oregon Administrative Rule (OAR) 340-48-0020 (6) states that "The Director shall provide an opportunity for the applicant, any affected state, or any interested agency, person, or group of persons to request or petition for a public hearing with respect to certification applications. If the Director determines that new information may be produced thereby, a public hearing will be held prior to the Director's final determination. Instances of doubt shall be resolved in favor of holding the hearing. There shall be public notice of such a hearing."

Written comments:

Written comments on the proposed certification must be received at the Oregon Department of Environmental Quality by 5 p.m. on **September 28, 2004**. Written comments should be mailed to Oregon Department of Environmental Quality, Attn: 401 Program Coordinator, 811 S.W. Sixth Avenue, Portland, Oregon 97204-1390 or faxed to (503) 229-5408. ***People wishing to send written comments via e-mail should be aware that if there is a delay between servers or if a server is not functioning properly, e-mails may not be received prior to the close of the public comment period.*** People wishing to send comments via e-mail should send them in Microsoft Word (through version 7.0), WordPerfect (through version 6.x) or plain text format to 401publiccomments@deq.state.or.us. Otherwise, due to conversion difficulties, DEQ recommends that comments be sent in hard copy.

WHAT HAPPENS NEXT: DEQ will review and consider all comments received during the public comment period. Following this review, the permit may be issued as proposed, modified, or denied. You will be notified of DEQ's final decision if you present either oral or written comments during the comment period. Otherwise, if you wish to receive notification, please call or write DEQ at the above address.

ACCESSIBILITY INFORMATION: This publication is available in alternate format (e.g. large print, Braille) upon request. Please contact DEQ Office of Communications and Outreach at (503) 229-5317 or toll free within Oregon at (800) 452-4011 to request an alternate format. People with a hearing impairment can receive help by calling DEQ's TTY at (503) 229-6993.

PUBLIC NOTICE

OREGON COASTAL MANAGEMENT PROGRAM

CONSISTENCY CERTIFICATION

Date: August 30, 2004

Corps of Engineers Action ID Number: 200400434

Oregon Department of State Lands Number: 32561-RP

NOTIFICATION

For projects subject to coastal zone review, notice is hereby given that the project is being reviewed by the Department of Land Conservation and Development (DLCD) as provided in Section 307(c) of the Coastal Zone Management Act. The applicant believes that the activities described in the attached materials would comply with and be conducted in a manner consistent with the Oregon Coastal Management Program. Project information can be made available for inspection at DLCD's Salem office.

DLCD is hereby soliciting public comments on the proposed project's consistency with the Oregon Coastal Management Program. Written comments may be submitted to DLCD, 635 Capitol Street NE, Suite 150, Salem, OR 97301-2540, attention consistency review specialist. Any comments must be received by DLCD on or before the comment deadline listed in the federal notice. For further information, you may call DLCD at (503) 373-0050, ext. 253.

REVIEW CRITERIA

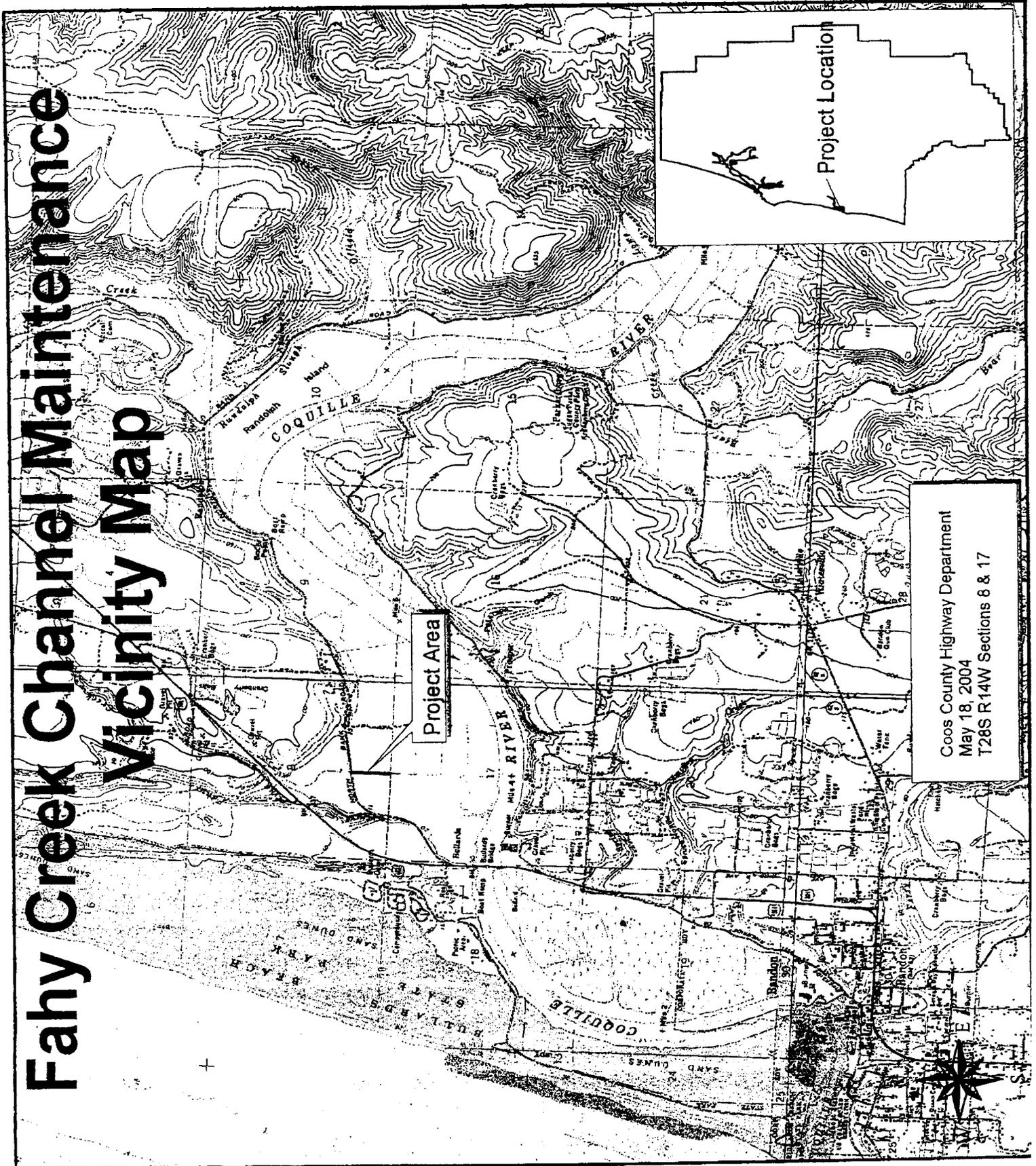
Comments should address consistency with the applicable elements of the Oregon Coastal Management Program. These elements include the following:

- Acknowledged Local Comprehensive Plans & Implementing Ordinances
- Statewide Planning Goals
- Applicable State Authorities (e.g. Removal-Fill Law and Oregon Water Quality Standards)

INCONSISTENT?

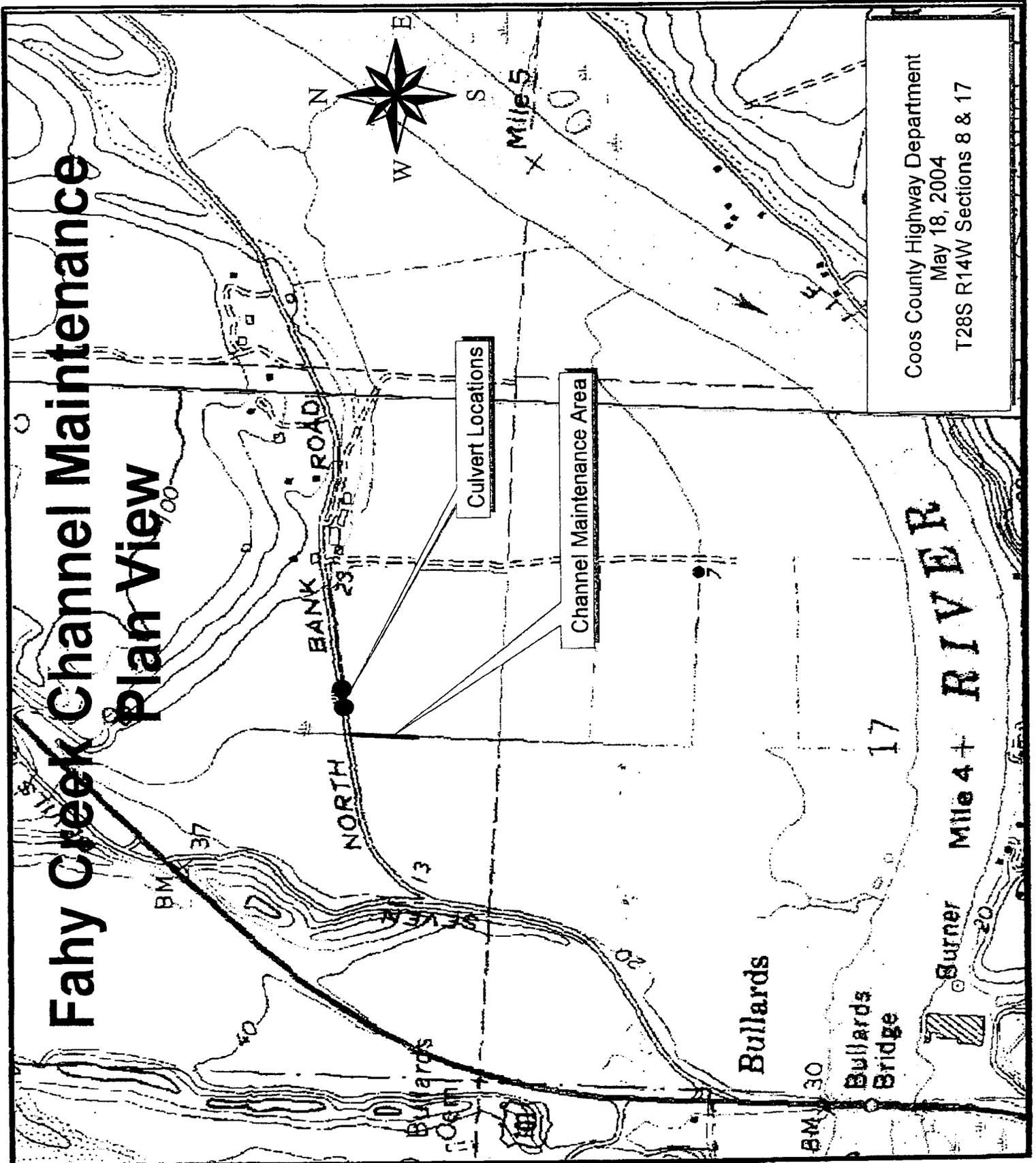
If you believe this project is inconsistent with the Oregon Coastal Management Program, your comments to DLCD should explain why you believe the project is inconsistent and should identify the Oregon Coastal Management Program element(s) in question. You should also describe how the project could be modified, if possible, to make it consistent with the Oregon Coastal Management Program.

Fahy Creek Channel Maintenance Vicinity Map

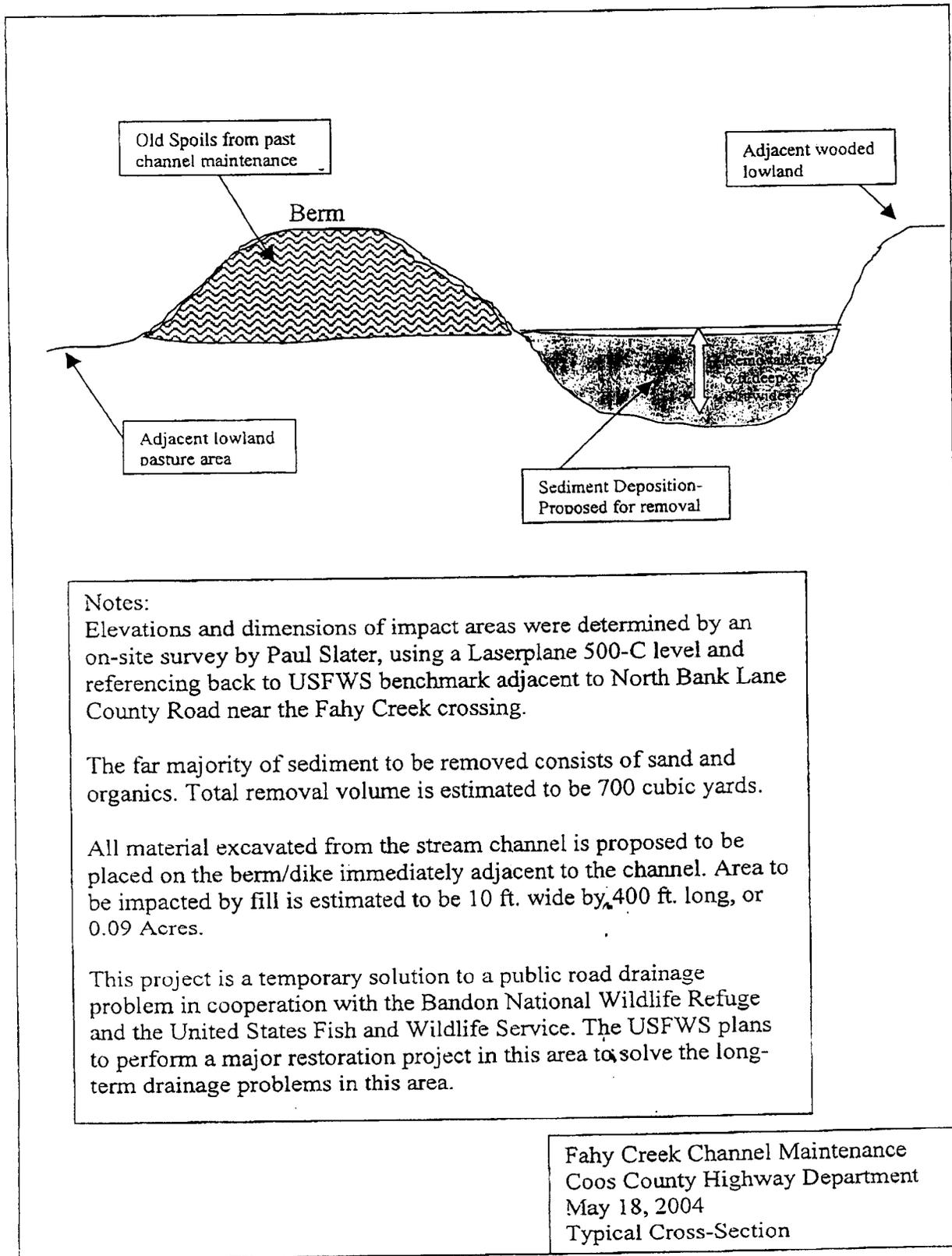


Coos County Highway Department
May 18, 2004
T28S R14W Sections 8 & 17

Fahy Creek Channel Maintenance Plan View



Coos County Highway Department
May 18, 2004
T28S R14W Sections 8 & 17



Notes:
 Elevations and dimensions of impact areas were determined by an on-site survey by Paul Slater, using a Laserplane 500-C level and referencing back to USFWS benchmark adjacent to North Bank Lane County Road near the Fahy Creek crossing.

The far majority of sediment to be removed consists of sand and organics. Total removal volume is estimated to be 700 cubic yards.

All material excavated from the stream channel is proposed to be placed on the berm/dike immediately adjacent to the channel. Area to be impacted by fill is estimated to be 10 ft. wide by 400 ft. long, or 0.09 Acres.

This project is a temporary solution to a public road drainage problem in cooperation with the Bandon National Wildlife Refuge and the United States Fish and Wildlife Service. The USFWS plans to perform a major restoration project in this area to solve the long-term drainage problems in this area.

Fahy Creek Channel Maintenance
 Coos County Highway Department
 May 18, 2004
 Typical Cross-Section