



Tracking Number: (2022-16)

To request a change to regulations under the authority of the California Fish and Game Commission (Commission), you are required to submit this completed form to: California Fish and Game Commission, (physical address) 1416 Ninth Street, Suite 1320, Sacramento, CA 95814, (mailing address) P.O. Box 944209, Sacramento, CA 94244-2090 or via email to FGC@fgc.ca.gov. Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

Incomplete forms will not be accepted. A petition is incomplete if it is not submitted on this form or fails to contain necessary information in each of the required categories listed on this form (Section I). A petition will be rejected if it does not pertain to issues under the Commission's authority. A petition may be denied if any petition requesting a functionally equivalent regulation change was considered within the previous 12 months and no information or data is being submitted beyond what was previously submitted. If you need help with this form, please contact Commission staff at (916) 653-4899 or FGC@fgc.ca.gov.

SECTION I: Required Information.

Please be succinct. Responses for Section I should not exceed five pages

1. Person or organization requesting the change (Required)

Name of primary contact person: Randal South

Address: [Redacted]

Telephone number: [Redacted]

Email address: [Redacted]

2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: 1) Fish & Game Code (FGC), Chapter 2, Section 203
2) Fish & Game Code (FGC), Chapter 2, Section 219

3. Overview (Required) - Summarize the proposed changes to regulations:

- 1) Ban bird hunting at the Lake Earl Wildlife area. (Accepted) (Outside scope of FGC authority)
- 2) Replace county operated Lake Earl breaching practice with a solar powered aqueduct.

4. Rationale (Required) - Describe the problem and the reason for the proposed change:

Too close to human habitation, and consistent violation of the rule that requires hunters not to discharge their firearms within 150 yards of human habitation (FGC, Article 1, Section 3004).

(see attached brief supplement)

SECTION II: Optional Information

5. Date of Petition: 09-17-22

6. Category of Proposed Change

- Sport Fishing
- Commercial Fishing
- Hunting
- Other, please specify: Habitat Maintenance



- 7. **The proposal is to:** *(To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)*
 - Amend Title 14 Section(s): Chapter 10, Section 625
 - Add New Title 14 Section(s): *Click here to enter text.*
 - Repeal Title 14 Section(s): *Click here to enter text.*

- 8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition** *Click here to enter text.*
Or Not applicable.

- 9. **Effective date:** If applicable, identify the desired effective date of the regulation. If the proposed change requires immediate implementation, explain the nature of the emergency: 11-01-22, but no later than 11-01-23 if FGC and CDFW are unable to complete proposed amendments in the 2022 calendar year.
- 10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: Statement from petitioner, and following url -- <https://www.thepetitionsite.com/613/953/649/stop-bird-hunting-on-the-lake-earl-wildlife-refuge/>
- 11. **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: Ban on bird hunting will likely have a positive impact in terms of public revenue generated by Del Norte county (continued on attached)
- 12. **Forms:** If applicable, list any forms to be created, amended or repealed:
Click here to enter text.

SECTION 3: FGC Staff Only

Date received: 9/19/22

FGC staff action:

- Accept - complete
- Reject - incomplete
- Reject - outside scope of FGC authority

Tracking Number

Date petitioner was notified of receipt of petition and pending action: _____

Meeting date for FGC consideration: _____

FGC action:

- Denied by FGC
- Denied - same as petition _____
Tracking Number
- Granted for consideration of regulation change

Petition to The California Fish & Game Commission
(Supplement to FGC 1, Dated 09-16-22 [Revolving 06/19])

4. Rational (*continued*):

TO CLOSE TO HUMAN HABITATION

The petitioner supervises a youth hostel that shares a border with the Lake Earl Wildlife area, and guests commonly complain about the sound of gun shots during the hunting season. The petitioner's property is less than 200 feet from Lake Earl during the summer time, and part of the petitioner's property is submerged by Lake Earl during the flood season. Guests can not walk to the end of our property without concern about getting shot by duck hunters. As a result, it potentially jeopardizes revenue that Del Norte County receives from the operation since the hostel pays 10% transient occupancy tax on a quarterly basis to Del Norte County.

Similarly the home across the street from the Petitioner's property is occupied by a family that purchased the property from the Lamoore estate, and some of the Lamoore's have previously signed petitions objecting to hunting on CDFW property because it was too close to their property.

HUNTERS DO NOT TAKE HOME WHAT THEY KILL

The graphic images presented in the following URL demonstrate hunters don't take home their birds <https://www.thepetitionsite.com/613/953/649/stop-bird-hunting-on-the-lake-earl-wildlife-refuge/> These images were taken by the petitioner who started a petition on petitionsite.org after the local newspaper (Triplicate) refused to publish the story and images, but instead of leaving the dead birds for the local animal population to consume, CDFW and the county came by to pick them up quickly so that no one would know about it after receiving a complaint.

Other reasons justifying the end of bird hunting include poaching, hunter misconduct, and all of the reasons mentioned in the onsite petition that has as of today has more than 246,047 signatures -- 92,804 of those signatures are in California. The petition on the petitionsite.org provides an authoritative, and historical perspective that suggest that the construction of the road to the mouth of Lake Earl in 1971 changed the character of hunting, and the type of people that hunt in this area.

A detailed analysis of the problem as well as other problems from current bird hunting practices are described in detail on petitionsite.org

10. Supporting Documentation:

The issue of damage from breaching, and lack of breaching of the sand bar has been thoroughly aired as evidenced by the multitude of the following news articles on the matter, and the lawsuit filed against CDFW by property owners in the Ocean Shores area, etc :

<https://www.sfgate.com/bayarea/article/Beach-breach-battle-3052593.php>

<https://derrickjensen.org/culture-of-make-believe/lake-earl/>

<https://www.casemine.com/judgement/us/5914b319add7b0493476413f>

<https://ceqanet.opr.ca.gov/1989013110/8>

https://www.academia.edu/64658644/Barrier_Beach_Breaching_from_the_Lagoon_Side_With_Reference_to_Northern_California

The issue before FGC is not whether or not the water level should be breached during flood season, but best practices on how to do it. Historically the Army Core of Engineers “has not” reviewed aqueduct technology in this area. As a result, aqueduct technology should be incorporated into the Master Plan so as to minimize ecologic damage, damage to the water table, and enhance the usability of the lagoon by fish and birds.

11. Economic & Fiscal Impact:

Del Norte County’s Revenue will likely be enhanced by the ban on duck hunting since guests at the hostel pay a 10% transient occupancy tax to Del Norte County. The loss of revenue to the state from duck hunting license is not germane to the equation because CDFW has consistently refused to engage in discussions about other streams of revenue to them besides the meager amount of money they collect from duck hunting licenses at Lake Earl.

During previous discussions with CDFW, it was proposed that they consider offering organized bird tours for a fee which are already conducted on an informal basis by Ornithologist in the area. Additionally CDFW failed to rebuild their 100 year old farm house they purchased at the intersection of Lake Earl Drive, and Lakeview Drive after it burned down from a fire even though this was an insurable risk. The loss of this building reduced housing stocks in the area since it was capable of housing at least 12 people. Those 12 people inevitably would have provided a consistent source of revenue to CDFW. As a result, the issue of a loss of revenue from hunting licenses is not really germane since CDFW has chosen not to accept funding from other revenue streams.

Del Norte County’s economic impact from aqueduct construction is negligible. The county will save money on the cost of a bulldozer opening up the sand bar, save money on the cost of permits with various regulators, but will incur annual, or biannual costs in cleaning filters on the intake of the aqueduct which are needed in order to insure the aqueduct doesn’t suck up animal life when it dumps water into the ocean.

HABITAT PRESERVATION

CDFW should replace the process of breaching Lake Earl with a solar powered, pump driven, electric aqueduct, or similar apparatus as reviewed by the Army Core of Engineers.

The current breaching process of Lake Earl has significantly increased the salt level which is evident by the dying plant life that surrounds the lake including the death of large coniferous trees on its perimeter. Other concerns are potential contamination to the underground aquifer which many residents are dependent on since most of the county is on well water.

The result of piping the water over the sand bar is that the lake will desalinate over time as water is pumped from the lake without opening up the sand bar.