



US Army Corps
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SAN FRANCISCO DISTRICT

PUBLIC NOTICE

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Regulatory Division
1455 Market Street
San Francisco, CA 94103-1398

September 2008

RESPONSE REQUIRED BY: 15 November 2008

1. **INTRODUCTION:** The California Department of Parks and Recreation (Contact: Ken Gray, kgray@parks.ca.gov) has applied for a Department of the Army permit to manage the Carmel River Lagoon's water level by grading the sand bar separating the lagoon from the Pacific Ocean at the Carmel River State Beach, Monterey County, California as part of the Carmel Lagoon Water Level Adaptive Management Project. This application is being processed pursuant to the provisions of Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. Section 403) and Section 404 of the Clean Water Act (33 U.S.C. Section 1344).

2. **PROPOSED PROJECT:** The project site is located within the Carmel River State Beach in an unincorporated area of Monterey County, south of the City of Carmel where Carmel River flows into the Pacific Ocean. The lagoon is located west of State Highway 1 (See Figure 1).

The Carmel Lagoon Water Level Adaptive Management Project is a strategy for managing water levels in the Carmel River Lagoon each spring at the beginning of the summer dry season. The project objective is to maintain and enhance habitat for fish and wildlife including steelhead trout and California red-legged frogs by maximizing the volume of fresh water in the lagoon. The enhancement will be accomplished by management of the Carmel River Lagoon's water level to maximize the volume of freshwater in the lagoon at the beginning of the summer dry season. The Project involves using heavy equipment to modify the beach that separates the lagoon from the ocean. The goal will be to maximize the lagoon water level up to a maximum elevation of 10 feet (NGVD 1929, which is equivalent to 12.77 feet on the North American Vertical Datum of 1998).

The Lagoon Water Level Management Project has been developed in consultation with the Carmel Lagoon Technical Advisory Committee (TAC) which was formed in 2005. The TAC is charged with examining the basic sciences of coastal, marine and river processes and the impacts on beach dynamics to determining the information needed to make informed decisions and plans to preserve and enhance the geophysical and ecological functions of the Carmel River Lagoon and barrier beach. The TAC has been meeting monthly to make recommendations regarding management of lagoon water levels and work on plans for data collection, research, and both short- and long-term planning. The TAC is composed of representatives from the following organizations:

- California Department of Parks and Recreation
- U.S. Army Corps of Engineers
- California Department of Fish and Game
- California Coastal Commission
- Central Coast Regional Water Quality Control Board
- Monterey County Public Works Department
- Monterey County Water Resources Agency
- NOAA Fisheries
- US Fish & Wildlife Service
- Monterey Peninsula Water Management District

Managing lagoon water levels during periods when the lagoon is flowing intermittently to the ocean and while the river is flowing at more than 20 cubic feet per second (cfs) is problematic. Efforts to elevate or relocate the discharge location to maintain a higher lagoon level by using heavy equipment to push sand into the flowing water have been shown to be ineffective since sand quickly washes away when exposed to flowing water. It is desirable to enhance fish habitat by maintaining higher lagoon levels by

causing the river to flow across bedrock that underlies portions of the beach. However, activities to manage the outlet by moving sand are constrained both by the volume of sand available on the beach and equipment availability. A wide range of factors can influence the lagoon level and outlet, including beach size, shape, and condition, inflow, sand transport through the lagoon and in the near shore environment, ocean activity, winds, previous beach management activities, and upstream diversions. In addition, the decision about the type of management action to be taken (e.g., closure only or closure with excavation of an outlet channel) may be influenced by the demands of the life cycle of steelhead and/or other aquatic species at the time a decision is needed. Specific decisions regarding the timing of management actions each year will be made by State Parks in consultation with the TAC.

California State Parks will be the lead agency for the spring/summer beach Management. During typical years, spring/summer river flows entering the lagoon slowly decline and eventually cease when the river goes dry. When river flows decline to a range of between 20 and 25 cfs, State Parks will mobilize equipment and staff to close the barrier beach. State Parks may also excavate an outlet channel along the beach if, in consultation with the TAC, it is determined that an outlet channel is both desirable to enhance habitat and feasible.

Under the management plan each spring the beach adjacent to the lagoon would be modified to raise the elevation of the beach between the ocean and the lagoon and to create a high-level outlet channel for the river. This work would be accomplished each spring before the river flows to the lagoon cease for the summer. A larger, deeper lagoon during the summer/fall period increases the quality and quantity of fish and wildlife habitat. A larger and deeper lagoon at the end of the annual river flow period also increases the chances that the lagoon will maintain adequate volume and quality to sustain healthy conditions for fish and wildlife until river flows resume during the following fall/winter period.

The modifications to the beach would be accomplished with one to three bulldozers. This equipment would be transported to the public parking lot located at the north end of the beach (See Figure 2). Equipment use may be supplemented by hand filling and placement of sandbags. No sand or other earthen material will be imported or exported from the site. Although beach conditions vary significantly from year to year the beach typically would be raised 3 to 5 feet in elevation by pushing beach sand from adjacent portions of the beach. The raised berm would typically be 50 feet wide and 200 feet long.

The high-level outlet channel would be created by the same method south of the elevated beach. The approximate location of the channel is shown in Figure 3. The channel would be approximately 10 feet wide and up to 600 feet long. The total volume of sand moved by the bulldozers would vary significantly from year to year depending on the beach conditions. Typically the total sand moved would be about 1,000 cubic yards. The work would be performed by one to three bulldozers which would be transported by semi-truck trailer to the State Beach parking lot at the corner of Carmelo Street and Scenic Road. The dozers are unloaded in the parking lot and are driven down the beach to the work site. The parking lot is typically closed to the public for safety reasons when loading and unloading the equipment from the transport vehicles. When equipment is operated on the beach, State Parks personnel in addition to the operators are on site to keep the public a safe distance away from the equipment. Timing of the work will depend on river flows and lagoon and beach conditions; in most years the work will occur in April, May or June. Specific decisions regarding the timing of management actions each year will be made by State Parks in consultation with the Carmel Lagoon Technical Advisory Committee (TAC).

The effects of this project on fish and wildlife habitat will be monitored indirectly by measuring water quantity and quality parameters. Water

quality monitoring will be performed a minimum of once a month, at a minimum of one location and at depth intervals of 18 inches or less. The water quality data will be collected at depth intervals to detect variations in the water column. The lagoon is known to typically become stratified with saltwater becoming concentrated at lower levels. Water quality parameters will include lagoon level, temperature, salinity, and dissolved oxygen.

California State Parks states that although it is desirable to determine actual annual population counts of steelhead in the lagoon, such monitoring involves capture/mark/recapture studies which are expensive and labor intensive to conduct. In addition, such studies involve handling young fish, which can result in incidental take. Therefore population studies are not a required monitoring program for this project.

Although population studies are not required, when staff and funding are available the studies will occur in the lagoon as frequently as twice a year. Typically one sampling event will occur in early summer following closure of the beach and another sampling event will occur in the late fall before the barrier beach is breeched. The typical sampling method will be to collect fish with a seine net although other methods may be employed based on recommendations of the TAC.

A summary of management actions undertaken and the results will be discussed at the TAC meeting following each activity with a brief description included in the minutes of that meeting. Copies of the TAC meeting minutes will be available to the public following their approval by the TAC. Supplemental reporting may be undertaken and made available to the public when warranted.

A summary annual report will be prepared which briefly describes management actions taken during the previous year and the results of monitoring activities. Each annual report will cover the 12-month period of October 1 through September 30. This time period is widely accepted as the “water

year” by hydrologists and meteorologists. The report will be completed and distributed by December 31 of the same year. Copies of the annual report will be sent to regulatory agencies and stakeholder groups and made available to the public upon request.

3. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

National Environmental Policy Act of 1969 (NEPA): The Corps will assess the environmental impacts of the proposed action in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. Section 4371 et. seq.), the Council on Environmental Quality's Regulations (40 C.F.R. Parts 1500-1508), and the Corps' Regulations (33 C.F.R. Part 230 and Part 325, Appendix B). Unless otherwise stated, the Environmental Assessment will describe only the impacts (direct, indirect, and cumulative) resulting from activities within the Corps' jurisdiction. The documents used in the preparation of the Environmental Assessment will be on file with the U.S. Army Corps of Engineers, San Francisco District, Regulatory Division, 1455 Market Street, San Francisco, California 94103-1398.

Endangered Species Act of 1973 (ESA): Section 7 of the Endangered Species Act requires consultation with the U.S. Fish and Wildlife Service (FWS) and/or the National Marine Fisheries Service (NMFS) if a Corps permitted project may adversely affect any Federally listed threatened or endangered species or its designated critical habitat. The Corps will be initiating consultation on impacts to the following listed species:

Steelhead trout (*Oncorhynchus mykiss irideus*) (South/central California coast Evolutionarily Significant Unit) is a federal-listed threatened species and a California Species of Special Concern. The anadromous version of the rainbow trout, steelhead migrate up coastal streams and rivers in the winter, spawn in the winter and spring,

and then return to the ocean. The Carmel River and lagoon supports a steelhead run.

California brown pelican (*Pelecanus occidentalis californicus*) is a federal- and State-listed endangered species. This pelican nests on islands along the coast and in the Gulf of California. Non-breeding birds range from the Gulf of California to southern British Columbia. The beach at the Carmel River mouth is a roosting and loafing site for the pelicans who also feed in the lagoon and the ocean here.

California red-legged frog (*Rana aurora draytonii*) is a federal-listed threatened species and a California Species of Special Concern. This frog occurs in the vicinity of quiet, permanent pools of streams, marshes, and ponds. It is known to occur in the Carmel River and Lagoon.

Western snowy plover (*Charadrius alexandrinus nivosus*) is a federal-listed threatened population and a California Species of Special Concern. This plover breeds on coastal beaches from southern Washington to southern Baja California, where populations are concentrated in areas of suitable habitat. Carmel River SB is a wintering site for the plover, and suitable habitat exists for breeding.

Magnuson-Stevens Fisheries Conservation and Management Act: Essential Fish Habitat - The Magnuson-Stevens Fishery Conservation and Management Act requires all Federal agencies to consult with the National Marine Fisheries Service (NMFS) on all actions, or proposed actions permitted by the agency that may adversely affect Essential Fish Habitat (EFH). This notice initiates the EFH consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The Corps' initial determination is that the proposed action would not have a substantial adverse impact on EFH or federally managed fisheries in California Waters. Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the NMFS.

Clean Water Act of 1972 (CWA):

a. Water Quality: Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), an applicant for a Corps permit must first obtain a State water quality certification before a Corps permit may be issued. No Corps permit will be granted until the applicant obtains the required water quality certification. The Corps may assume a waiver of water quality certification 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.

b. Alternatives: Evaluation of this proposed activity's impact 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. Section 1344(b)). An evaluation has been made by this office under the guidelines and it was determined that the proposed project is water dependent.

Coastal Zone Management Act of 1972 (CZMA): Section 307 of the Coastal Zone Management Act requires the applicant to certify that the proposed project is consistent with the State's Coastal Zone Management Program, if applicable. The proposed project is within the Coastal Zone.

4. PUBLIC INTEREST EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impact, 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 that reasonably may be expected to accrue from the proposed activity must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered, including its cumulative effects. Among those factors 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, considerations of property ownership, and, in general, the needs and welfare of the people.

whose name and address are indicated in the first paragraph of this Public Notice or by contacting Bob Smith of our office at telephone (415) 503-6792 or E-mail: robert.f.smith@usace.army.mil. Details on any changes of a minor nature that are made in the final permit action will be provided upon request.

5. 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 to determine whether to issue, 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 in the proposed activity.

6. SUBMISSION OF COMMENTS: Interested parties may submit, in writing, any comments concerning this activity. Comments should include the applicant's name and the number and the date of this Public Notice, and should be forwarded so as to reach this office within the comment period specified on Page 1. Comments should be sent to the U.S. Army Corps of Engineers, San Francisco District, Regulatory Division, 1455 Market Street, San Francisco, California 94103-1398. It is the 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 Public 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