



US Army Corps
of Engineers®

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

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

Project: Winter Island Levee Maintenance

NUMBER: 220330S

DATE: April 30, 2010

RESPONSE REQUIRED BY: May 30, 2010

PROJECT MANAGER: Holly Costa

PHONE: (415) 503-6780

Email: holly.n.costa@usace.army.mil

1. **INTRODUCTION:** Reclamation District 2122 (RD 2122), through its agent MBK Engineers (Gilbert Cosio, Jr., [916-456-4400]) has applied for a ten-year Department of the Army permit to allow the Reclamation District to continue receiving fill material for beneficial reuse on the levee surrounding Winter Island, Contra Costa County, California. 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:** Winter Island is a 453-acre island located on the western edge of the Sacramento-San Joaquin Delta, north of the Stockton Deepwater Ship Channel, and 5.4 miles west of the Antioch Bridge. The island is comprised of approximately 400 acres of freshwater marsh, 15 acres of open water habitat consisting of scattered ponds and the main water canal, 2 acres of riparian habitat along the levees, and 33 acres of upland habitat made up of open sandy soils and upland vegetation, surrounded by a system of levees approximately 6 to 7 feet high and built on a peat foundation”.

Winter Island has been managed as a waterfowl habitat and hunting area for over 60 years. The levee maintenance on Winter Island is necessary to protect the interior freshwater habitat from inundation by fresh and brackish water from Suisun Bay and the Sacramento-San Joaquin River Delta. Without continued maintenance, the levees surrounding Winter Island would deteriorate and fail.

This project was originally authorized under Corps Permit No. 18418 on March 5, 1992. The proposed project would essentially be a renewal of the Reclamation District’s subsequent Corps Permit No. 220330, issued on July 31, 1996 and amended through October 7, 2009, authorizing RD 2122 to place a total of 1,100,000 cubic yards of dredged and fill material in order to raise and strengthen the levee system. To date, approximately 1,012,316 cubic yards of dredged and fill material have been placed on the levee system. The current permit is set to expire on September 30, 2010.

Under the proposed new permit, general dredge material and clean fill would continue to be placed on the interior of the island levees over a period of ten years (see attached figures). Acceptance of the material would be based on the condition that it is from an authorized project which has been subject to environmental impact review and meets State and Federal discharge requirements.

A condition of approval for the original permit required RD 2122 to return 25 acres of the northern part of the island to wetland habitat. Restoration of the 25 acres has already been completed.

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 formal 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 proposed project will not impact any known threatened or endangered species.

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). There are no EFH concerns with this proposed project.

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.

Those parties concerned with any water quality issue that may be associated with this project should write to the Executive Officer, California Regional Water Quality Control Board, San Francisco Bay Region, 1515 Clay Street, Suite 1400, Oakland, California 94612 by the close of the comment period of this Public Notice.

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.

National Historic Preservation Act of 1966 (NHPA): Based on a review of survey data on file with various City, State and Federal agencies, no historic or archeological resources are known to occur in the project vicinity. If unrecorded resources are discovered during construction of the project, operations will be suspended until the Corps completes consultation with the State Historic Preservation Office (SHPO) in accordance with Section 106 of the National Historic Preservation Act.

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.

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 whose name and address are indicated in the first paragraph of this Public Notice or by contacting Holly Costa of our office at telephone (415) 503-6780 or e-mail: holly.n.costa@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.