



US Army Corps
of Engineers®

SAN FRANCISCO DISTRICT

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

PUBLIC NOTICE

Project: Bel Marin Keys South Lagoon Levee Repairs

NUMBER: 2005-29476N

DATE: May 24, 2010

RESPONSE REQUIRED BY: June 18, 2010

PROJECT MANAGER: Roberta Morganstern

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1. **INTRODUCTION:** Bel Marin Keys Community Services District (contact: Wendy P. Rocha, 4 Montego Key, Novato, CA 94949), through its agent (CLE Engineering, Inc) has applied for a Department of the Army permit to repair and maintain South Lagoon Levee within the Bel Marin Keys Community located in northeastern Marin County, east of the City of Novato, California. A location and vicinity map are provided at the end of this notice. 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:

Bel Marin Keys is a planned waterfront community protected by a system of levees, constructed over historic marshland. The community surrounds two constructed lagoons which are fed by Novato Creek. The lagoons are separated from Novato Creek by navigation locks containing fish screens to prevent entrapment. Levee repair is an ongoing activity due to erosion and subsidence because of the underlying marsh. Erosion requires replacement of fill on the lagoon side to re-establish the full cross-section of the levee. Subsidence requires increasing levee elevation to 7.0 feet and placement of a 12 inch thick layer of rip-rap is proposed to stabilize the repairs.

The project proposes to restore and maintain 10,500 linear feet of the South Lagoon Levee. Repairs are identified as Slope Repair (Type A), Fill to Raise Settled Levee, (Type B) and two types of Slope Relocation (Types C and D). An example of Types A and B are shown in Figure 3, Types C and D are

Figure 4 at the end of this notice. For each repair, appropriate erosion control measures would be put in place. Except for Type B repairs to raise the elevation of settled areas in the levee, erosion control measures include lowering the lagoon level, constructing a berm with clean fill and installing a silt curtain to reduce sediment discharge to the lagoon. Listed below, in order of priority, are the Station numbers, the length, and the type of repair proposed, corresponding to the examples shown in Figure 3, as well as on-going maintenance.

STATION #	LENGTH feet	TYPE of repair	FILL cubic yards
05+00 – 14+50	950	B	371.05
55+72 – 63+00	728	A	537.96
24+00 – 32+00	800	A	613.13
71+50 – 80+00	850	B	331.99
13+95 – 15+80	185	C	317.51
15+80 – 18+38	258	A	197.73
18+38 – 19+67	129	D	13.16
19+67 – 24+00	433	A	331.86
+55 – 105+20	10,575	As needed	As needed

The first phase of repair work would raise the levee to an elevation of 7.0 feet at Station 5+00 –14+50.

Type A repairs to Station 55+72 through 63+00 would armor the outboard levee slope. The proposed repair to 2,533 linear feet of levee would place 2011.35 cubic yards of select fill and 100 – 200 pound rip rap to a thickness of 12 inches. Constructing the temporary berm to de-water the project area would entail placement of 3,977 cubic yards of clean fill to be removed when repair work is completed.

Originating in the 1950's, construction of Bel Marin planned community pre-dates passage of the Clean Water Act. Armoring the levees and best management practices to contain sediment and construction debris contributes to reducing and mitigating for loss of aquatic functions.

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 not 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.

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 whose name and address are indicated in the first paragraph of this Public Notice or by contacting Roberta Morganstern of our office at telephone 415-503-6782 or E-mail: Roberta.Morganstern@usace.army.mil. Details on any changes of a minor nature that are made in the final permit action will be provided upon request.