

COASTAL CONSERVANCY

Staff Recommendation  
February 13, 2024

**DISPOSITION PLAN FOR BEL MARIN KEYS SOUTH LAGOON LEVEE**

Project No. 99-108-06  
Project Manager: Linda Tong

**RECOMMENDED ACTION:** Authorization to approve the Disposition Plan for the Bel Marin Keys South Lagoon Levee, for the purpose of transferring the South Lagoon Levee to the Bel Marin Keys Community Services District to maintain the structural integrity of the levee and to maintain the levee top trail for public access, in Marin County.

**LOCATION:** Bel Marin Keys Unit V, unincorporated Marin County

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EXHIBITS

- Exhibit 1: [Project Location and Site Map](#)  
Exhibit 2: [Project Photos](#)  
Exhibit 3: [Disposition Plan for Bel Marin Keys South Lagoon Levee Administered by the State Coastal Conservancy](#)
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**RESOLUTION AND FINDINGS**

Staff recommends that the State Coastal Conservancy adopt the following resolution and findings.

Resolution:

The State Coastal Conservancy hereby approves the Disposition Plan for the Bel Marin Keys South Lagoon Levee attached to the accompanying staff recommendation as Exhibit 3, for the purpose of transferring the South Lagoon Levee to the Bel Marin Keys Community Services District to maintain the structural integrity of the levee and to maintain the levee top trail for public access, in Marin County.

This authorization is subject to the following condition:

1. The Bel Marin Keys South Lagoon Levee shall be managed to maintain the structural integrity of the levee and to maintain the levee top trail for public access, and to support the restoration of tidal wetlands, seasonal wetlands, and other baylands habitat along the shoreline of San Pablo Bay in the County of Marin. The Property shall be permanently

dedicated to those purposes through an appropriate instrument approved by the Executive Officer.

Findings:

Based on the accompanying staff recommendation and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed authorization is consistent with Chapter 4.5 of Division 21 of the Public Resources Code, regarding restoration and enhancement of natural habitats in the San Francisco Bay Area and public access improvements to and around the Bay.
2. The proposed authorization is consistent with the current Conservancy Project Selection Criteria.

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## **STAFF RECOMMENDATION**

### **PROJECT SUMMARY:**

Staff recommends the Conservancy approve the Disposition Plan for the Bel Marin Keys South Lagoon Levee, for the purpose of transferring the South Lagoon Levee to the Bel Marin Keys Community Services District (BMKCSD) to maintain the structural integrity of the levee and to maintain the levee top trail for public access, in Marin County, as shown in Exhibit 1. Based on a land survey that the Conservancy will complete, the transfer will likely entail (1) lot line adjustments for the following parcels: 157-172-41, 157-172-38, 157-172-37, 157-172-07, and (2) title conveyance for the following parcels: 157-570-09, 157-172-06. The lot line adjustments will increase the size of the adjacent parcels owned by the BMKCSD, and the title conveyance will transfer full parcels to the BMKCSD. The approximate areas to be transferred are shown in Exhibit 2.

In 2001, Conservancy purchased fee title to land known as Bel Marin Keys Unit V (BMKV) in an unincorporated area of the County of Marin for the purpose of restoring tidal wetlands, seasonal wetlands, and other baylands habitat along the shoreline of San Pablo Bay in the County of Marin, as well as improving public access at the property (collectively, the “acquisition purposes”). The 1,613-acre BMKV property expanded the adjacent Hamilton Wetland Restoration Project, which is also owned by the Conservancy and has been restored to baylands habitat with an improved public access trail.

The BMKV property contains a levee that borders the adjacent South Lagoon of the Bel Marin Keys housing development. The portion of the BMKV property that contains the levee, referred to as the Levee Property, consists of the levee top, levee sides, and includes one or more paths from the levee that lead to the rest of the BMKV property. The Conservancy and its partners use the Levee Property to access the rest of the BMKV land and to conduct necessary work. Necessary work includes but is not limited to site maintenance and adaptive management activities for a portion of BMKV property that was restored to seasonal wetlands in a first phase of restoration. Site access and work will also be required for upcoming restoration at BMKV to restore more seasonal wetlands, tidal wetlands, and other baylands habitat.

Though the Levee Property is currently owned by the Conservancy in fee title, the BMKCS D has been maintaining the structural integrity of the Levee Property through an easement. The BMKCS D owns and manages the adjacent South Lagoon parcels. The BMKCS D has expressed strong interest in owning the Levee Property in fee title, to gain full control and responsibility of maintaining the structural integrity and proper use of the Levee Property. Because the BMKCS D has a responsibility to protect the Bel Marin Keys community and its waterways and facilities, the BMKCS D has an interest in maintaining the South Lagoon levee to prevent a levee failure that could flood the community. For the past several years, the Conservancy has discussed the potential transfer of ownership of the Levee Property to the BMKCS D.

The Conservancy does not own or manage land as one of its primary legislated functions. The Levee Property needs more management than is practical for the Conservancy to provide. In addition, management of the land is burdensome on the Conservancy's resources. Transferring the Levee Property to the BMKCS D will relieve the Conservancy of the responsibilities associated with owning and managing the Levee Property, while ensuring the land is protected and maintained for its acquisition purposes and that the BMKCS D has full legal responsibility for maintaining the Levee Property. The Conservancy will retain a perpetual easement on the Levee Property that allows the Conservancy and its partners to access the rest of the BMKV property and to conduct the necessary work described above, and to support the habitat restoration and public access purposes of the BMKV Expansion of the Hamilton Wetlands Restoration Project.

**Site Description:** The Bel Marin Keys housing development surrounds two artificial lagoons, the North Lagoon and the South Lagoon. Each home of the Bel Marin Keys housing development has back-yard water access to either one of the two lagoons or Novato Creek. Maintenance of the levees surrounding the lagoons is required to sustain this community. Failure of the levees could result in flooding of the community or flooding of the adjacent State-owned lands to the south and southeast.

The Levee Property borders the BMKCS D's South Lagoon. There is a levee top trail that runs the length of the Levee Property. The Levee Property comprises approximately 41.7 acres, or approximately 1,816,000 square feet, along approximately 10,500 linear feet. The Conservancy will retain ownership of the parking area adjacent to the Levee Property boundary, at the site entrance off Bel Marin Keys Blvd. The eastern end of the Levee Property encompasses an area where the BMKCS D has an existing easement and maintains a navigational lock.

**Property Transferee Qualifications:** The BMKCS D is a Special District, a unit of local government, created in 1961 by the Marin County Board of Supervisors BMKCS D Enabling Resolution 6797. The BMKCS D owns and maintains the other levees surrounding the lagoons and housing development. In March 2024, residents of Bel Marin Keys voted to approve a \$30 million parcel tax to fund the cost of raising the levees to address sea level rise and improving the set of locks that provide access to Novato Creek, demonstrating BMKCS D's commitment and capacity to maintain its levees.

Apart from its approximately 200 acres of waterways, the BMKCS D is responsible for the maintenance of eight parks, four boat ramps/docks, two navigational locks, numerous open spaces, public lighting and levee. The BMKCS D Board of Directors has a responsibility to protect

and maintain the interest of the community at large and work to ensure the community's waterways and facilities are maintained and accessible to its residents.

**CONSISTENCY WITH CONSERVANCY'S PROJECT SELECTION CRITERIA:**

The proposed project is consistent with the Conservancy's Project Selection Criteria, last updated on September 23, 2021, in the following respects:

**Selection Criteria**

**1. Extent to which the project helps the Conservancy accomplish the objectives in the Strategic Plan.**

See the "Consistency with Conservancy's Strategic Plan" section below.

**2. Project is a good investment of state resources.**

Working with the BMKCSD to transfer ownership of the Levee Property will ensure responsibility of the BMKCSD to maintain the structural integrity and proper use of the Levee Property. Transferring the Levee Property will relieve the Conservancy of the responsibilities associated with owning and managing the Levee Property, allowing the Conservancy to focus resources on the rest of the BMKV property.

**3. Project benefits will be sustainable or resilient over the project lifespan.**

BMKCSD will be invested in maintaining the Levee Property, as it borders the South Lagoon that provides homeowners with water access to Novato Creek and San Pablo Bay. The Levee Property also is a popular trail for residents and visitors, which will be kept open for public access. The Conservancy will require an easement that allows the Conservancy and its successors and assigns to access the Levee Property and conduct necessary work on the BMKV property.

**CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:**

The project is being undertaken pursuant to Chapter 4.5 of Division 21 of the Public Resources Code (sections 31160-31165). Section 31162 authorizes the Conservancy to undertake projects in the nine-county San Francisco Bay Area to help achieve regional public access and resource goals. Transferring the Levee Property will enable appropriate management of property that supports restoration of critical tidal wetlands habitat, consistent with Section 311162(b), and that provides public access through local trails, consistent with Section 311162(a).

**CONSISTENCY WITH CONSERVANCY'S [2023-2027 STRATEGIC PLAN](#):**

Consistent with **Goal 3.2 Restore or Enhance Habitats**, the project will allow for enhancement and restoration of tidal wetlands, managed wetlands, seasonal wetlands, and other Baylands habitat on the BMKV property.

**CEQA COMPLIANCE:**

The project is categorically exempt from the California Environmental Quality Act (CEQA) under Public Resources Code Section 21080.28. The exemption applies to the acquisition, sale, or other transfer of interest in land by a public agency for (A) Preservation of natural conditions existing at the time of transfer, including plant and animal habitats; (B) Restoration of natural conditions, including plant and animal habitats; (C) Continuing agricultural use of the land; (D) Prevention of encroachment of development into flood plains; (E) Preservation of historical resources; or (F) Preservation of open space or lands for park purposes. The project meets these purposes, as transferring the Levee Property will preserve existing natural conditions as well as a public access trail, and will support site access and activities for restoration of baylands habitat at BMKV.

Upon approval of the project, Conservancy staff will file a Notice of Exemption.