

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF FINANCIAL ASSISTANCE
MAY 19, 2009**

ITEM 3

SUBJECT

CONSIDERATION OF A RESOLUTION ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS REGARDING THE SANTA BARBARA COUNTYWIDE INTEGRATED REGIONAL WATER MANAGEMENT (IRWM) IMPLEMENTATION GRANT FOR THE CITY OF SANTA BARBARA (CITY) LOWER MISSION CREEK (CREEK) FLOOD CONTROL PROJECT (COMPONENT 6)

DISCUSSION

In November 2002, California voters approved the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002, (Stats. 2003, ch. 493). It amended the California Water Code to add, among other articles, §79560 et seq., authorizing the Legislature to appropriate funding for IRWM projects. The intent of the IRWM Grant Program is to provide funding via competitive grants for projects to protect communities from drought, protect, and improve water quality, and to improve local water security by reducing dependence on imported water while encouraging water management on a regional level.

Proposition 50 authorizes approximately \$360 million to implement these projects. The IRWM Grant Program is administered jointly by the State Water Resources Control Board (State Water Board) and the Department of Water Resources (DWR). In July 2007, the State Water Board and DWR approved the IRWM Program Guidelines for Round 2. On June 3, 2008, the State Water Board adopted an IRWM Implementation Grant Funding list with grants totaling \$31.1 million ([Resolution No. 2008-0039](#)) and DWR approved an IRWM Implementation Grant Funding List with grants totaling \$27.1 million.

Component 6 is part of the larger Santa Barbara Countywide IRWM Implementation Project awarded funds by the State Water Board as part of the IRWM Grant Program. Component 6 was approved for \$1 million, and will reconstruct a portion of the Creek, from State Street to Mason Street, to improve flood flow conveyance, reduce erosion, and improve water quality. Component 6 will increase channel capacity to 3,400 cubic feet per second (cfs) to provide approximately 20-year flood protection. The Creek is 303(d) listed for pathogens, unknown toxicity, and fecal coliform. Previous bank stabilization efforts degraded the natural characteristics of the Creek bottom. The Creek is also affected by urbanization in the watershed. The State Water Board has not made findings regarding Component 6 pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code § 21000 et seq.).

The U.S. Army Corps of Engineers (USACOE) and the City jointly prepared an Environmental Impact Statement/Environmental Impact Report (EIS/EIR) that addresses Component 6, which will be constructed by the City and maintained by the Santa Barbara County Flood Control and Water Conservation District. The draft EIS/EIR was distributed to the public and circulated through the State Clearinghouse (SCH No. 1998101061) for public review from December 28, 1999 through February 10, 2000. The City and USACOE received comments from three federal agencies, three local agencies, nine nonprofit organizations, and 22 individuals. The following is a summary of the specific comments:

- U.S. Environmental Protection Agency (U.S. EPA) commented on the narrow channel widths and the use of energy dissipation structures. U.S. EPA recommended that USACOE conduct a survey of the tidewater goby, ensure existing temperature and salinity conditions were met, and address potential impacts from widening the stream channel.
- U.S. Department of the Interior, Office of the Secretary recommended more ecological restoration and enhancement of the Creek, and inclusion of restoration techniques or measures for steelhead and tidewater goby habitat restoration.
- U.S. Coast Guard noted that it must approve any changes to vertical or horizontal clearances at bridges crossing the Creek.
- City, Historic Landmarks Commission (Commission) commented on the removal of historic structures, and the need to address the historic potential of properties along Chapala Street. The Commission also was concerned with the removal of several trees.
- City, Architectural Board of Review (Architectural Board) commented on the lack of pedestrian and visual access, and suggested expanding access. The Architectural Board requested that designs be submitted for the wall, railing, and fencing, and recommended preserving the trees.
- City, Parks and Recreation Department (Parks and Recreation) expressed concerns about using concrete vertical cylinders for tree plantings, and recommended preserving the historic sycamores and oaks. Parks and Recreation was concerned with increased maintenance responsibilities and trash deposits, potential for human encampments, security issues, and viability of a created wetland. Parks and Recreation requested studies to evaluate the successful function of the Creek, and suggested that education be considered and trails be installed.
- Non-profits and Individuals commented on water quality, maintenance, safety and sedimentation impacts, and draft EIS/EIR's inadequacies. Several comments noted support for the project, provided suggestions on the project design and maintenance, and recommended additional studies on biological resources, water quality, recreation, and aesthetics. Some comments suggested planting additional canopy trees, preserving historic properties, inquiring about land acquisitions and additional properties that might be acquired. Recommendations were made to extend the project boundaries and address a smaller-capacity version of Component 6. A few comments noted inconsistencies with local and General Plan policies, while all other comments requested project clarifications and revisions to the EIS/EIR.

At the request of the California Coastal Commission (CCC) and the public, the USACOE performed an informal economic analysis of two smaller versions of Component 6 that would have a conveyance capacity of 2,500 cfs, use bank protection upstream and downstream of Highway 101, and provide approximately 15-year flood protection. Additional studies were conducted and included as appendices in the final EIS/EIR. The City and USACOE responded to all other comments received and modified the EIS/EIR, as needed.

The City certified the final EIS/EIR on June 28, 2001. The City adopted a Mitigation Monitoring and Reporting Program (MMRP) and a Statement of Overriding Considerations (SOC), and approved Component 6 on December 4, 2001. The City filed a Notice of Determination (NOD) with the Santa Barbara County Clerk on December 5, 2001, and the Governor's Office of Planning and Research (OPR) on December 10, 2001. The USACOE approved Component 6, certified the final EIS/EIR, and filed a Record of Decision with the Federal Register on May 16, 2002.

In 2008, the City prepared an addendum EIR to provide minor updates, and incorporate recommended project modifications as a result of the required consultation under the federal Endangered Species Act with the National Marine Fisheries Service and the U.S. Fish and Wildlife Service for the federally endangered tidewater goby (*Eucyclogobius newberryi*) and steelhead (*Oncorhynchus mykiss*). The City also included other recommendations as requested by the CCC. The addendum EIR focused on the area south of the northern edge of Highway 101 right-of-way, which lies within the coastal zone. None of the updates or modifications required the preparation of a Supplemental EIR. The addendum EIR was not circulated for public review; however, the addendum EIR was presented for adoption at the City's public hearing and no comments were received. The City considered the addendum EIR with the final EIS/EIR during its approval of Component 6, and adopted the addendum EIR on September 18, 2008.

State Water Board reviewed and considered the EIS/EIR, the addendum EIR, the MMRP, the SOC, the Santa Barbara Countywide IRWM Work plan and other environmental documents. Based on this review, State Water Board staff determined that Component 6 will improve existing water quality conditions.

Component 6 improvements consist of removing old of bank revetments and widening the Creek channel. Natural channel banks will be constructed and stabilized where feasible. A structure near Mason Street may be removed, and a lagoon will be constructed in its place. This component also includes removing non-native plants, planting riparian vegetation, and constructing goby refuges (coarse surface relief of the walls), fish ledges (artificial overhangs projecting from the walls) and fish baffles (placing double rows of coarse boulders).

The City adopted an SOC to substantiate its decision to approve Component 6 despite short-term significant aesthetic, noise, and traffic impacts, as well as significant and unavoidable cultural resources impacts (demolition of the Structure of Merit at 15 West Mason Street). The City will preserve the architectural and historical integrity of other historic structures in the area. However, the loss of the structure at 15 West Mason Street is significant because feasible mitigation measures could not be identified to reduce this impact to a less than significant level.

State Water Board staff finds that the following specific economic, social, technological, and environmental benefits of Component 6 outweigh these unavoidable adverse environmental impacts:

- Component 6 will help preserve the beneficial uses, including cold and warm freshwater habitat, migration of aquatic organisms, freshwater replenishment, and estuarine habitat, of the Creek.
- Component 6 will improve water quality of the Creek, and provide habitat for aquatic species, including special-status species.
- Component 6 will reduce sedimentation and erosion of the channel banks, and restore the Creek to a more natural setting.
- Component 6 will reduce flood hazards and potential flood damage for parcels within the floodplain.
- In the long-term, Component 6 is anticipated to improve habitat for biological resources and the aesthetic appearance of the Creek.
- Parcels within the Creek alignment will be moved out of the floodplain, and the Flood Insurance Rate Map will be revised. These property owners and tenants will have fewer costs because they will not be required to purchase annual flood insurance.
- The improved flood control may improve property values, which may increase property tax revenues for the City and the County of Santa Barbara.
- The demolition of the structure at 15 West Mason Street will allow for a creek alignment that will preserve the integrity of other structures in the area. Protection of these other structures will preserve a significant part of the City's architectural and historical integrity.

POLICY ISSUE

Should the State Water Board:

Adopt a Statement of Overriding Considerations regarding the Santa Barbara Countywide IRWM Implementation Grant Component 6?

FISCAL IMPACT

None

REGIONAL WATER BOARD IMPACT

Component 6 is within the jurisdiction of the Central Coast Regional Water Quality Control Board (Central Coast Water Board). The USACOE, in a December 20, 1999 letter, requested from the Central Coast Water Board a waiver from Clean Water Act (CWA) Section 401 Water Quality Certification for the construction and maintenance of Component 6. The Central Coast Water Board, in a February 2, 2000 letter, issued a waiver of Waste Discharge Requirements and waiver of CWA Section 401 Water Quality Certification.

STAFF RECOMMENDATION

The State Water Board should:

Adopt a Statement of Overriding Considerations regarding the Santa Barbara Countywide IRWM Implementation Grant Component 6.

State Water Board action on this item will assist the Water Boards in reaching Goal 1 of the Strategic Plan Update: 2008-2012 to implement strategies to fully support the beneficial uses for all 2006-listed water bodies by 2030. In particular, approval of this item will assist in fulfilling Objective 1.2 to manage urban runoff volume to reduce pollutant loadings, reduce wet weather beach postings by 75 percent by 2020, eliminate dry weather beach closures and postings by 2012, and, where applicable, explore opportunities for using management techniques to promote sustainable water supplies.

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STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2009-

ADOPT A STATEMENT OF OVERRIDING CONSIDERATIONS REGARDING THE SANTA BARBARA COUNTYWIDE INTEGRATED REGIONAL WATER MANAGEMENT (IRWM) IMPLEMENTATION GRANT FOR THE CITY OF SANTA BARBARA (CITY) LOWER MISSION CREEK (CREEK) FLOOD CONTROL PROJECT (COMPONENT 6)

WHEREAS:

1. The Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 authorizes approximately \$360 million to implement projects that protect communities from drought, protect and improve water quality, and improve local water security by reducing dependence on imported water while encouraging water management on a regional level;
2. The IRWM Grant Program is administered jointly by the State Water Resources Control Board (State Water Board) and the Department of Water Resources (DWR);
3. The IRWM Program Guidelines for Round 2 were adopted by the State Water Board and approved by DWR in July 2007;
4. On June 3, 2008, the State Water Board adopted an IRWM Implementation Grant Funding list with grants totaling \$31.1 million ([Resolution No. 2008-0039](#));
5. The Santa Barbara Countywide IRWM Implementation Project was on the June 3, 2008, IRWM Implementation Grant Funding List approved by the State Water Board;
6. Component 6 is part of the Santa Barbara Countywide IRWM Project;
7. The U.S. Army Corps of Engineers (USACOE) and the City jointly prepared an Environmental Impact Statement/Environmental Impact Report (EIS/EIR) that addresses Component 6;
8. The City certified the final EIS/EIR on June 28, 2001;
9. The City adopted a Mitigation Monitoring and Reporting Program and a Statement of Overriding Considerations (SOC), and approved Component 6 on December 4, 2001;
10. The City filed a Notice of Determination with the Santa Barbara County Clerk on December 5, 2001 and the Governor's Office of Planning and Research on December 10, 2001;
11. The USACOE approved Component 6, adopted the final EIS/EIR and filed a Record of Decision with the Federal Register on May 16, 2002;
12. The City prepared an addendum Environmental Impact Report (EIR) to provide project updates, and adopted the addendum EIR on September 18, 2008;

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13. The State Water Board has not made findings regarding Component 6 of the Santa Barbara Countywide IRWM Implementation Project pursuant to the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.);
14. The City adopted an SOC to substantiate its decision to approve Component 6 despite significant short-term impacts to aesthetics, noise and traffic, as well as a significant and unavoidable impact to cultural resources (demolition of the structure located at 15 West Mason Street);
15. The State Water Board finds that the following specific economic, social, technological, and environmental benefits of Component 6 outweigh these unavoidable adverse environmental impacts:
 - Component 6 will help preserve the beneficial uses, including cold and warm freshwater habitat, migration of aquatic organisms, freshwater replenishment, and estuarine habitat, of the Creek.
 - Component 6 will improve water quality of the Creek, and provide habitat for aquatic species, including special-status species.
 - Component 6 will reduce sedimentation and erosion of the channel banks, and restore the Creek to a more natural setting.
 - Component 6 will reduce flood hazards and potential flood damage for parcels within the floodplain.
 - In the long-term, Component 6 is anticipated to improve habitat for biological resources and the aesthetic appearance of the Creek.
 - Parcels within the Creek alignment will be moved out of the floodplain, and the Flood Insurance Rate Map will be revised. These property owners and tenants will have fewer costs because they will not be required to purchase annual flood insurance.
 - The improved flood control may improve property values, which may increase property tax revenues for the City and the County of Santa Barbara.
 - The demolition of the structure at 15 West Mason Street will allow for a creek alignment that will preserve the integrity of other structures in the area. Protection of these other structures will preserve a significant part of the City's architectural and historical integrity.
16. The State Water Board reviewed and considered the draft and final EIS/EIR and other environmental documents, and determined that Component 6 will improve existing water quality conditions.

D R A F T

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

Adopts a Statement of Overriding Considerations regarding the Santa Barbara Countywide IRWM Implementation Grant for Component 6.

CERTIFICATION

The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Board held on May 19, 2009.

Jeanine Townsend
Clerk to the Board