

Aide Ortiz - Planada WWTF

From: Lee Fremming <lfremming@fppeng.com>
To: 'Aide Ortiz' <AOrtiz@waterboards.ca.gov>
Date: 5/6/2011 3:08 PM
Subject: Planada WWTF
CC: 'Gary Conte' <gary_vpc@sbcglobal.net>, 'Tom Skinner' <tom_vpc@sbcglobal.net>, "'Manrique, Alfonso'" <Alfonso.Manrique@aecom.com>, <Tjkeene2@aol.com>, 'Pcsd' <pcsd103@aol.com>
Attachments: Planada WWTF Schedule 4-24-11.pdf; Planada WWTF Schedule 4-24-11.pdf

Aide-

The following are comments from the District's environmental consultant, Valley Planning Consultants, and our firm in regard to the tentative time schedule order and the tentative NPDES permit, and the additional project delays which the District has experienced since the previous time schedule order was issued by the RWQCB:

Environmental Analysis & Review Process Delays-

The Planada WWTP Improvement Project, albeit now amended, has been subject to previous environmental analyses. The previous environmental impact report (EIR) and project to upgrade and expand the District WWTP capacity from 0.53 to 1.2 million gallons / day and to change the District's effluent disposal method from a surface water discharge to Miles Creek to agricultural reclamation was legally challenged. In March 2008, the District Board of Directors, as a settlement of litigation, decertified the EIR. The Board also rescinded the approval of the project.

Subsequent to the settlement agreement, the District has moved forward with a new proposal to upgrade and expand the WWTP. The new project proposal, which is the subject of the current EIR, intends to comply with Central Valley Water Board's direction of meeting applicable treated effluent disposal requirements. The new project proposal would also expand the WWTP treatment capacity from 0.53 to 0.75 mgd. The method of effluent disposal would change from surface water discharge to Miles Creek to agricultural reclamation on lands adjacent to the District's WWTP.

The District intends to fund of the project through grants and loans available from the State Water Resources Board – the District has submitted an application to the State Water Resources Board, Division of Financial Assistance seeking assistance through the State Water Board's Clean Water State Revolving Fund (CWSRF) Loan Program. The District is also proposing to partially fund the project through grants and loans available from the United States Department of Agriculture-Rural Development (USDA-RD) – the District has submitted an application USDA-RD seeking federal assistance through USDA-RD's Rural Utilities Service Water and Environmental Programs (WEP). Financing the proposed project through a loan from USDA-RD or through a loan from the CWSRF Loan Program constitutes a federal action.

Unlike with the previous project proposal for which the District only prepared an environmental analysis to satisfy the requirements of the California Environmental Quality Act (CEQA), the District is now preparing an environmental analysis to satisfy the requirements of CEQA and the National Environmental Policy Act (NEPA). The District serves as the lead agency under CEQA and USDA-RD serves as the lead agency under NEPA. USDA-RD will use its environmental assessment to support a Record of Decision. The EIR will serve as a supplement to USDA-RD's environmental assessment.

Studies completed for the previous project EIR indicated Miles Creek was an ephemeral stream and when effluent discharged from the WWTP contributed the only flow in Miles Creek, it was assumed that the flow only supported an aquatic habitat for only several hundred feet downstream of the WWTP discharge location. Previous studies also suggested Miles Creek joined Owens Creek (also identified as an ephemeral creek) approximately seven miles downstream from the WWTP discharge point.

A hydrology study recently completed for the project environmental analysis indicates Miles Creek downstream

of the WWTP discharge point is perennial and not seasonal as previously documented. Field observations also reveal that Miles Creek does not terminate at Owens Creek, but in fact only merges with Owens Creek for approximately 1.25 miles and then splits from Owens Creek and continues to flow for approximately 4.5 miles where it then drains into Hartley Slough adjacent to the City of Merced's WWTP and Merced Wildlife Management Area.

The State Water Resources Board, California Department of Fish and Game (CDFG) and the United States Fish and Wildlife Services (USFWS) are concerned about the loss of treated effluent discharged to Miles Creek (dewatering) may have on the creek's flora and fauna. In particular, USFWS is concerned about the direct / indirect affect cessation of treated effluent to Miles Creek may have on the Giant Gartner Snake. Indirect effects include changes in hydrology (loss of vegetation and eliminating habitat for hunting and refuge). The Giant Garter Snake is a federally threatened listed species. Pursuant to informal consultation with USFWS, USFWS is requiring the District to prepare a biological assessment to address the potential project affects on three federally listed species (giant garter snake, San Joaquin kit fox and valley elderberry longhorn beetle). Completion of USDA-RD's environmental documentation and review process required of the project cannot be completed until a biological assessment determination (i.e., biological opinion or determination of no affect) is rendered by USFWS.

Project construction could be affected by the presence of nesting raptors or other protected migratory birds, including Swainson's hawk and burrowing owl. The Swainson's hawk is known to forage and nest in the project vicinity. Project site provides potential nesting habitat for raptors and other protected migratory birds. The project will be subject to pre-construction surveys for nesting raptors and other protected migratory birds, and if active nests or burrows are found, temporal construction restrictions could be applied to the project. These construction restrictions could delay the completion of construction by 6 months or more.

Other Delays-

The present Gantt Chart (i.e., bar chart) schedule for this project currently includes 99 interrelated tasks. See the attachment, which is best printed out in color on 11"x17" paper. When Time Schedule Order No. R5-2005-0009 was issued with a deadline for completion of construction of September 12, 2012, a number of these tasks were not known, the extent of some of the tasks was not entirely understood, and the relationship of some tasks to other tasks was not yet clearly defined. The following is a partial list of tasks which will occur after the CEQA/NEPA process is completed and which were not known or whose relationships to other tasks were not defined:

1. Execution of the engineering design and construction contracts cannot occur until after the CEQA/NEPA process is complete.
2. Interim funding must be acquired before the engineering design can begin. Agreements for interim funding cannot be executed until the CEQA/NEPA process is complete.
3. Before the USDA will issue its Letter of Conditions (i.e., its funding commitment), the property appraisals and option agreements must be submitted to USDA for review.
4. The time for USDA to review the application for funding and issue a Letter of Conditions is 120 days.
5. The SWRCB has indicated that it will take up to 150 days, or more, after the CEQA Notice of Determination is filed for the District to receive the initial financing agreement for Clean Water SRF funds.
6. USDA must review the final contract documents prior to bid advertisement, which will take 14 to 21 days or more.
7. The SWRCB must review the bids and issue an Approval of Award, which is estimated to take 30 days or more.
8. Previously, the length of the construction period was estimated at 240 days (8 months). Now the length of the construction period is estimated at between 365 to 548 days (12 to 18 months) depending on whether Swainson's Hawks are found in the area. The biological report indicates that the habitat in the area is suitable for Swainson's Hawks.

If you have any comments regarding the above, please feel to contact me. In addition, we request that, if appropriate,

copies of written comments by others be sent to us prior to the hearing. If we are allowed to have the written comments of others prior to the meeting, will we also be allowed to respond to these comments before the meeting? In addition, we also request that a copy of the staff report that will be given to the RWQCB be sent to us prior to the meeting.

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ID	Task Name	Duration	Start	Finish	Predecessors	2011												2012												2013											
						Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr					
1	CEQA/NEPA Process & Related Items	318 days	Mon 11/1/10	Wed 9/14/11		[Summary Bar]																																			
2	Project Description & Project Alternatives	33 days	Wed 11/17/10	Sun 12/19/10		[Summary Bar]																																			
3	USDA Coord/Fed Agency Preconsultation Meeting	1 day	Wed 11/17/10	Wed 11/17/10		[Task Bar]																																			
4	Revise draft proj. desc. & alternatives for EIR	14 days	Mon 11/22/10	Sun 12/5/10	3FS+4 days	[Task Bar]																																			
5	Submit proj. description to District/Project team	0 days	Sun 12/5/10	Sun 12/5/10	4FF	[Task Bar]																																			
6	District/ project team review	7 days	Mon 12/6/10	Sun 12/12/10	5	[Task Bar]																																			
7	Finalize proj. desc. & alternatives for EIR	7 days	Mon 12/13/10	Sun 12/19/10	6	[Task Bar]																																			
8	Administrative Draft EIR/EA	183 days	Mon 11/1/10	Mon 5/2/11		[Summary Bar]																																			
9	Prepare administrative draft EIR	117 days	Mon 12/20/10	Fri 4/15/11	7	[Task Bar]																																			
10	Biological Assessment	152 days	Mon 11/1/10	Fri 4/1/11		[Task Bar]																																			
11	Miles Creek Hydrology Study	131 days	Mon 11/1/10	Fri 3/11/11		[Task Bar]																																			
12	Cultural Resources Assessment- Section 106	33 days	Mon 11/1/10	Fri 12/3/10		[Task Bar]																																			
13	Floodplain Assessment	75 days	Mon 11/1/10	Fri 1/14/11		[Task Bar]																																			
14	Anti-Degradation Assessment	75 days	Mon 11/1/10	Fri 1/14/11		[Task Bar]																																			
15	Submit admin. draft EIR to Dist. & proj. team	0 days	Fri 4/15/11	Fri 4/15/11	9FF	[Task Bar]																																			
16	District/project team review	14 days	Sat 4/16/11	Fri 4/29/11	15	[Task Bar]																																			
17	Review comments w/District & project team	3 days	Sat 4/30/11	Mon 5/2/11	16	[Task Bar]																																			
18	Draft EIR/EA	65 days	Tue 5/3/11	Wed 7/6/11		[Summary Bar]																																			
19	Prepare draft EIR	11 days	Tue 5/3/11	Fri 5/13/11	17	[Task Bar]																																			
20	Publish draft EIR & forms	1 day	Fri 5/13/11	Fri 5/13/11	19FF	[Task Bar]																																			
21	Submit draft EIR to District/project team	0 days	Fri 5/13/11	Fri 5/13/11	19FF	[Task Bar]																																			
22	Submit draft EIR/CEQA forms to Clearinhouse	0 days	Fri 5/13/11	Fri 5/13/11	19FF	[Task Bar]																																			
23	Distribute Draft EIR to general public/SWRCB	0 days	Fri 5/13/11	Fri 5/13/11	19FF	[Task Bar]																																			
24	45 day public review & comment period	54 days	Sat 5/14/11	Wed 7/6/11	23	[Task Bar]																																			
25	Administrative Draft Final EIR	37 days	Thu 7/7/11	Fri 8/12/11		[Summary Bar]																																			
26	Review comments w/District & consultants	1 day	Thu 7/7/11	Thu 7/7/11	24	[Task Bar]																																			
27	Decision for add. study & direction on response	1 day	Thu 7/7/11	Thu 7/7/11	24	[Task Bar]																																			
28	Prepare admin. draft final EIR	22 days	Fri 7/8/11	Fri 7/29/11	27	[Task Bar]																																			
29	Submit admin. draft final EIR to Dist. & Proj. team	0 days	Fri 7/29/11	Fri 7/29/11	28	[Task Bar]																																			
30	District/project team review	14 days	Sat 7/30/11	Fri 8/12/11	29	[Task Bar]																																			
31	Administrative Draft Mitigation Monitoring Program	27 days	Sun 7/17/11	Fri 8/12/11		[Summary Bar]																																			
32	Prepare Admin. Draft mitigation monitorin program	13 days	Sun 7/17/11	Fri 7/29/11	28SS+9 days	[Task Bar]																																			
33	Submit to District & project team	0 days	Fri 7/29/11	Fri 7/29/11	32	[Task Bar]																																			
34	District/project team review	14 days	Sat 7/30/11	Fri 8/12/11	33	[Task Bar]																																			
35	Administrative Draft Findings	27 days	Sun 7/17/11	Fri 8/12/11		[Summary Bar]																																			
36	Prepare admin. draft findings	13 days	Sun 7/17/11	Fri 7/29/11	28SS+9 days	[Task Bar]																																			
37	Submit admin. draft findings to Dist. & project team	0 days	Fri 7/29/11	Fri 7/29/11	36FF	[Task Bar]																																			
38	District/project team review	14 days	Sat 7/30/11	Fri 8/12/11	37	[Task Bar]																																			
39	Final EIR	25 days	Sat 8/13/11	Tue 9/6/11		[Summary Bar]																																			
40	Prepare final EIR	14 days	Sat 8/13/11	Fri 8/26/11	38	[Task Bar]																																			
41	Publish final EIR & forms	0 days	Fri 8/26/11	Fri 8/26/11	40	[Task Bar]																																			
42	Submit final EIR to District/project team	0 days	Fri 8/26/11	Fri 8/26/11	40	[Task Bar]																																			
43	Submit final EIR/CEQA forms to clearinghouse	0 days	Fri 8/26/11	Fri 8/26/11	40	[Task Bar]																																			
44	Distribute final EIR	0 days	Fri 8/26/11	Fri 8/26/11	40	[Task Bar]																																			
45	10 day public review period	11 days	Sat 8/27/11	Tue 9/6/11	44	[Task Bar]																																			
46	Mitigation Monitoring Program	14 days	Sat 8/13/11	Fri 8/26/11		[Summary Bar]																																			
47	Prepare mitigation monitoring program	14 days	Sat 8/13/11	Fri 8/26/11	38	[Task Bar]																																			
48	Submit Mitig. Mon. Prog. to District/project team	0 days	Fri 8/26/11	Fri 8/26/11	47	[Task Bar]																																			
49	Findings	14 days	Sat 8/13/11	Fri 8/26/11		[Summary Bar]																																			
50	Prepare findings	14 days	Sat 8/13/11	Fri 8/26/11	38	[Task Bar]																																			

Project: Planada WWTF Timeline
Date: April 25, 2011



- 52 **Send RFP for design & construction engineering**
Send RFP for design & construction engineering after findings are submitted
- 62 **Sign agreements for design & construction engineering**
Sign agreements after CEQA/NEPA process complete.
- 63 **Property Appraisals (38 ac. + option properties)**
Per 3-31-11 email from Paul Boyer with comments from Jose Guardado, USDA needs a copy of all the option agreements, purchase prices, time to do the purchases, legal descriptions, appraisals, etc. before the Letter of Conditions is issued. **Per 4-13-11 meeting log, appraisal work can begin before CEQA/NEPA complete.**
- 64 **Acquire Option Agreement for Thiara 38 Acres**
Per 3-31-11 email from Paul Boyer with comments from Jose Guardado, USDA needs a copy of all the option agreements, purchase prices, time to do the purchases, legal descriptions, appraisals, etc. before the Letter of Conditions is issued. Also, need to complete appraisal before signing option agreement.
- Per 4-13-11 meeting discussion (see log) the option can be signed before CEQA/NEPA is completed as long as no payment is made at signing and purchase price paid after CEQA/NEPA complete.
- 65 **Obtain Interim Financing for Design & Appraisal Costs**
Sign agreement for interim financing no later than the date the engineering agreements are signed. Also, may or may not need to submit copy of loan documents to USDA prior to issuance of Letter of Conditions. See 3-31-11 email from Paul Boyer, but for sure will need to submit them before loan closing.
- 68 **Processing/complete NEPA/Letter of Conditions rec'd**
Per telecon with Jose Guardado on 3-1-11 (see log) the time needed between the complete application being submitted and the receipt of the Letter of Conditions will be 75 to 120 days depending on public comments.
- Per Rames, the District cannot purchase land or get interim financing before USDA funds are obligated. Also per Rames, USDA funds become available after the Preconstruction Conference is held and the Letter of Conditions is satisfied.
- Per 3-31-11 email from Paul Boyer with comments by Jose Guardado, before the Letter of Conditions can be issued by USDA they will need: land option agreements and land cost; time to do sale; property descriptions; appraisals; copy of interim financing loan documents
- 71 **Processing & receipt of Initial Financial Agreement**
On 3-1-11 (see log) Andrew Lawrence of SWRCB recommended using 150 days as the time period between the posting of the Notice of Determination and the receipt of the Initial financing agreement from SWRCB. The actual time could be more (likely) or less (less likely).
- 75 **Plan and contract document preparation (AECOM)**
Design to start after interim financing secured and agreement signed.
- 76 **USDA plan review & approval to bid**
In a telecon on 3-1-11 (see log) Jose Guardado said that time needed to review the plans and issue an approval to bid will be 14 to 21 days.
- 81 **Exercise purchase option with developers**
Per agreement with developers, option must be exercised by no later than 4-1-2012 and the purchase must take place no later than 90 days after the option is exercised. In order to exercise option District must have a "financing commitment". Per SHE, the Letter of Conditions constitutes a "financing commitment. See 2-26-11 email from Paul Boyer
- 83 **Bid opening (FP&P)**
Bid opening, request approval from USDA/SWRCB to issue Notice of Award, issue Notice to Award, execute contract
- 84 **SWRCB bid review/ receipt of Approval of Award (AOA)**
In a 3-1-11 telecon (see log) Andrew Lawrence of SWRCB said that SWRCB must review bids and issue an Approval of Award before the Notice of Award is sent to the contractor. He estimated the time to do this at 30 days.
- 85 **Make Payment Request to USDA for Land, etc.**
Per 3-31-11 email from Paul Boyer with comments by Jose Guardado, District can make payment request 45 days prior to loan closing so that land can be purchased a day or two after loan closing.
- 88 **USDA loan closing/ USDA funds available**
Per Rames, USDA funds become available after the Preconstruction Conference is held and the Letter of Conditions is satisfied.
- Per 3-31-11 email from Paul Boyer with comments by Jose Guardado, District can make payment request 45 days prior to loan closing so that land can be purchased a day or two after loan closing.
- At 3-10-11 meeting Jose said that a wire transfer can occur within 7 days of his office making a request for funds.
- 89 **Close of Escrow/District reimbursed for past expenses**
Per agreement with developers, option must be exercised by no later than 4-1-2012 and the purchase must take place no later than 90 days after the option is exercised, which would be no later than 6-29-2012 if option exercised on 4-1-2012, but could be earlier if option exercised earlier
- Per 3-31-11 email from Paul Boyer with comments by Jose Guardado, District can make payment request 45 days prior to loan closing so that land can be purchased a day or two after loan closing.
- 91 **Pay USF&WS Giant Garter Snake Mitigation Fee**
Per telecon with Gary Conte on 3-28-11, the mitigation fee for the Giant Garter Snake Impact can be paid just before construction starts.
- 94 **Construction Period**
AECOM estimates a total construction period of 18 months, with actual construction occurring over a 12 month period. This is due to restrictions on construction to mitigate impact to wildlife. See 02-11-11 email from AECOM
- 95 **Provide 150 sewer connections to Developers**
Per the settlement agreement with the Developers, the District must provide 150 connections by 12-31-2013 or the \$750,000 is immediately due