

STAFF REPORT

CONSIDERATION OF ENROLLMENT OF CARNEGIE STATE VEHICLE RECREATION AREA IN THE SMALL MUNICIPAL STORM-WATER (MS4) GENERAL PERMIT

BACKGROUND

Carnegie State Vehicle Recreation Area (SVRA) is an off-highway vehicle area located southwest of Tracy at the boundary of Alameda and San Joaquin counties. The SVRA lies in the rugged, dry hills of the Corral Creek watershed, which drains eastward to the San Joaquin River. The California Department of Parks and Recreation (State Parks) has managed Carnegie SVRA for public recreational use of off-highway vehicles, primarily motorcycles and small 4-wheel vehicles, since 1980. A network of dirt roads, trails, tracks, hill-climbing slopes, and storm-water structures are maintained by State Parks for this use. In addition, State Parks manages parking, camping, maintenance and other facilities at the site to accommodate about 90,000 visitors per year with an estimated average daily population of 250.

Storm water discharges from the park are the primary concern to water quality. Sediment, disturbed by recreational vehicle activity and transported in storm water runoff, is the primary pollutant of concern. State Parks developed a Storm Water Management Plan (SWMP) that describes the best management practices (BMPs) State Parks is implementing to address erosion and control sedimentation. The BMPs include exclusion of riders from the creeks, road and trail improvements, sediment basins and closure of areas in need of rehabilitation. The BMPs undergo continuing implementation, evaluation, and improvement, and are compiled in a BMP manual linked to the Storm Water Management Plan.

Carnegie SVRA operates a small municipal separate storm sewer system (Small MS4), as defined in Title 40, Code of Federal Regulations (40 CFR) §122.26, and is subject to regulation under the National Pollutant Discharge Elimination System (NPDES) General Permit For Storm Water Discharges From Small MS4s (Small MS4 Permit). The Small MS4 Permit provides the Regional Water Boards the authority to designate non-traditional operators of MS4s, like schools, college campuses, prisons, and other publically operated facilities, to seek permit coverage.

Non-traditional Small MS4s may also be designated to seek permit coverage. These include non-traditional MS4s that are located within or discharge to a permitted MS4 and those that pose significant water quality threats. In general, these are storm water systems serving public campuses (including universities, community colleges, primary schools, and other publicly owned learning

institutions with campuses), military bases, and prison and hospital complexes within or adjacent to other regulated MS4s, or which pose significant water quality threats. State Board considered designating non-traditional Small MS4s when adopting this General Permit.

The Small MS4 Permit requires dischargers to develop and implement a SWMP that describes BMPs that reduce pollutants in storm water runoff to the technology-based standard of Maximum Extent Practicable (MEP) to protect water quality.[Title 40,Code of Federal Regulations (40 CFR) §122.26(b)(16).]

The Small MS4 Permit allows for flexibility to optimize reduction of pollutants in an iterative and site-specific manner. State Board is in the process of renewing the Small MS4 Permit and the draft Tentative Order, currently under review, explicitly includes State Recreational Vehicle Areas as regulated non-traditional Small MS4s. Because storm water discharges from Carnegie SVRA are the primary water quality concern, and Carnegie SVRA operates a Small MS4 serving an annual non-resident population of approximately 90,000 visitors that is subject to regulation under the Small MS4 Permit, storm water discharges from the park are appropriately regulated by the Small MS4 Permit. Board staff recommends enrolling Carnegie SVRA as a non-Traditional Small MS4 under the Small MS4 Permit.

To obtain coverage under the Small MS4 Permit, a discharger must submit a complete permit application (Notice of Intent, fee, and a complete SWMP). Water Board Staff reviews the SWMP and when it is determined to be complete the SWMP is published for public review for a minimum of 60 days. During this 60-day public review period a member of the public may request a copy of the SWMP and request that a public hearing be held by the Water Board.

State Parks initiated the Small MS4 Permit application process on 14 March 2011 with the submittal of a Storm Water Management Plan and a Notice to Intent (NOI) to comply with conditions of the Small MS4 Permit. The SWMP has been reviewed and accepted by staff, and was publically noticed for a sixty day review and comment period between 28 March 2011 and 26 May 2011. Public comments were received and State Parks has revised the SWMP to address the comments (revised SWMP dated 1 August 2011). California Sportfishing Protection Alliance (CSPA) and Public Employees for Environmental Responsibility (PEER) have requested the Board conduct a public hearing to approve the SWMP. If the Board approves the SWMP, Carnegie SVRA will be enrolled as a non-traditional entity under the Small MS4 Permit.

ISSUES

In December 2009, pursuant to a lawsuit brought by CSPA and PEER concerning storm water discharges from Carnegie SVRA, Alameda County Superior Court ordered State Parks to submit a report of waste discharge to the Central Valley Regional Board. State Parks complied with the order and

submitted a RWD on 29 December 2009. Following a site inspection and review of permitting options, Water Board staff designated State Parks as a Non-traditional Small MS4 required to obtain coverage under the Small MS4 Permit.

CSPA and PEER, in their comments on the SWMP, have asserted that the Small MS4 Permit will not assure compliance with the Basin Plan for storm water discharges from Carnegie SVRA. The Small MS4 permit provides for compliance with the Basin Plan through an iterative approach designed to reduce the discharge of pollutants to the Maximum Extent Practicable (MEP) and to protect water quality. Carnegie SVRA meets the criteria for designation as a non-traditional Small MS4, and storm water discharges from Carnegie SVRA are appropriately regulated under the Small MS4 Permit. State Parks' SWMP establishes BMPs that will meet Basin Plan objectives by reducing erosion and capturing sediment. Carnegie SVRA is similar to other public entities enrolled in this permit and subject to the same permit conditions.

State Parks has satisfactorily addressed public comments and Water Board staff requested changes in the SWMP. State Parks staff has been very cooperative and responsive in complying with requests to address problematic site conditions and making required revisions to their SWMP. Due to the scope of BMPs State Parks' has identified for implementation, and their demonstrated commitment to responsibly manage Carnegie SVRA to protect water quality and maintain habitat values, staff believes State Parks will successfully comply with the Small MS4 Permit. Central Valley Water Board staff will conduct routine inspections to assess progress on BMP implementation and compliance with permit conditions.

RECOMMENDED ACTION

Central Valley Water Board staff recommends the Water Board approve the 1 August 2011 SWMP allowing storm water discharges from State Parks Carnegie SVRA to be regulated under the Small MS4 Permit.