

ITEM: 14
SUBJECT: Tejon Mountain Village, LLC, Tejon Mountain Village, Kern County

BOARD ACTION: Consideration of Waste Discharge Requirements

BACKGROUND: Tejon Mountain Village, LLC is proposing to develop a 26,417 acre mountain resort community (Project) near Lebec. The Project will include up to 3,450 homes, commercial areas, a hotel/spa, two golf courses, riding and hiking trails, an equestrian facility, a fire station, private community centers, and utilities, and will require installation of roads and infrastructure to serve the project needs. Development will be restricted to a 5,082 acre building envelope with the remaining 21,335 acres being preserved.

Portions of the Project are in areas that drain to waters that have been determined by the Army Corps of Engineers to be isolated, non-navigable waterbodies and, therefore, not waters of the U.S. (non-jurisdictional waters). Discharges of dredge and fill materials and construction storm water runoff to these non-jurisdictional waters are not subject to federal Clean Water Act requirements.

During Project construction, the proposed Order will regulate only dredge and fill and construction storm water related discharges to these non-jurisdictional waters under the authority of the California Water Code as they are still waters of the State. Portions of the Project that do drain to federally jurisdictional waters will be regulated by other regulatory implements authorized by the federal Clean Water Act.

ISSUES: The Discharger and the Center for Biological Diversity submitted comments regarding the proposed Order. As described in the Response to Comments, staff made some changes to address some comments. The major outstanding issues are summarized below. Additional detail is provided in staff's Response to Comments.

Center for Biological Diversity (CBD)

CBD contends that the Order does not acknowledge the toxicity of water in Castac Lake. The Order does not regulate discharges to the Castac Lake watershed, as it is a jurisdictional water of the U.S. Discharges of wastes/pollutants to Castac Lake will be regulated by other instruments authorized by the federal Clean Water Act.

CBD contends that the Order does not protect beneficial uses of Castac Lake and Grapevine Creek. The Order contains prohibitions, numeric action levels, discharge specifications, receiving water limits and extensive monitoring requirements to protect the beneficial uses of Grapevine Creek insofar as they may be impacted by discharges of

dredge and fill materials and construction storm water runoff regulated by the Order. Staff review of water quality data for Castac Lake indicates it meets most water quality objectives with the possible exception of coliform. Due to naturally occurring conditions, the lake may generate concentrations of coliform exceeding water quality objectives. This Order prohibits regulated discharges to Grapevine Creek from causing exceedences of water quality objectives.

CBD comments that the Order does not address potential discharges of toxic water from Castac Lake to Grapevine Creek or downstream flooding in Grapevine Creek during storm events. The Order does not apply to the Castac Lake Watershed and regulation of flood control is generally beyond the purview of this Board. To the extent that development in the area covered by the Order does increase stream flows and erosion, the Order does require the Discharger to implement measures to ensure that post-development erosion potential is the same as pre-development erosion potential. Development in the Castac Lake Watershed will have to meet the same requirements under the State Board NPDES General Permit for Construction Storm Water Discharges. The Discharger must also address flooding in Grapevine Creek when it obtains permits from Kern County to improve the Lakeside Drive structures that form the outfall to Castac Lake.

CBD states the WDRs do not address groundwater depletion or management of Castac Lake levels by the Tejon Ranch Company. These particular issues are not within the purview of this Board or the scope of this Order.

CBD states that documents cited in the Order need to be available to the public. With the exception of the not-yet-produced storm water pollution prevention plans (SWPPPs) required by the Order, the documents referred to were publically available because they were included in both the draft and final Environmental Impact Reports for the Project. To be consistent with the requirements of the Construction General Permit, staff will post the SWPPPs on the Central Valley Water Board website for public review prior to their approval.

RECOMMENDATION: Staff recommends Board adoption of the WDRs.

Mgmt. Review _____

Legal Review _____

April 7/8, 2011

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