STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION

STAFF REPORT FOR REGULAR MEETING OF APRIL 14-16, 2021
Prepared on March 26, 2021

ITEM NUMBER: **11**

SUBJECT: **Consideration of Proposed Order No. R3-2021-0012, Waste Discharge Requirements for City of El Paso de Robles Annual Flood Control and Fire Fuel Load Reduction Project, San Luis Obispo County**

STAFF CONTACTS: **Kathleen Hicks, (805) 549-3458, Kathleen.Hicks@waterboards.ca.gov**

KEY INFORMATION

Location:	Salinas River and selected drainages and sediment basins within limits of City of El Paso de Robles
Discharger:	City of El Paso de Robles
Type of Discharge:	Vegetative material and sediment
Activity:	Mechanical and manual sediment removal, vegetation treatment, low-intensity prescribed burns, and livestock grazing
Mitigation:	Riparian habitat rehabilitation and enhancement through planting; invasive species removal; trash removal
Existing Orders:	None

ACTION: **Adopt Proposed Order No. R3-2021-0012**

SUMMARY

This staff report provides an overview of the requirements included in proposed Order No. R3-2021-0012 (Attachment 1) for the City of El Paso de Robles (Discharger) Annual Flood Control and Fire Fuel Load Reduction Project (Project). The Project will result in a discharge of large woody debris, downed vegetation, and masticated material in multiple locations in the Salinas River watershed within the Discharger's jurisdiction. The Project also has the potential to reduce canopy cover, cause erosion and sediment discharge, release petroleum products from equipment use, and introduce livestock waste in waters of the state. Central Coast Water Board staff worked collaboratively with the Discharger to draft the proposed order. The proposed order regulates discharges of waste to the Salinas River channel, tributary drainages, and basins to ensure the Discharger will achieve water quality standards and protect beneficial uses. The proposed order protects beneficial uses by requiring that project impacts to waters of the state are avoided and minimized to the extent possible, while still providing for the Discharger to achieve the Project goals. The proposed order also requires the

Discharger to implement mitigation for those impacts to waters of the state that cannot be avoided or minimized. In addition, the proposed order contains numerous conditions requiring the Discharger to implement measures to control potential pollutant sources to protect water quality.

This staff report summarizes the Project and proposed order conditions, monitoring and reporting requirements, alignment with Central Coast Water Board initiatives, as well as comments and responses received on the proposed order. Central Coast Water Board staff recommends adoption of the proposed order.

DISCUSSION

Background

Fire safety concerns have increased in recent years for communities within city limits adjacent to the Salinas River, including the Discharger's declaration of an emergency to conduct fuel load reduction activities in July 2019. Public concern increased after a fire in June 2020 that spread to homes adjacent to the river. During both years, the Discharger conducted emergency fuel reduction activities within the Salinas River channel, including the use of mechanized equipment to remove vegetation in and around sensitive riparian habitats. The Central Coast Water Board did not object to these emergency unpermitted activities, provided the Discharger developed a long-term plan to implement the Project and mitigate past and future impacts from Project activities and sought authorization for the Project from the Central Coast Water Board.

In 2019, emergency fuel management activities were conducted over 64 acres of the Salinas River and floodplain. Since July 2019, numerous meetings were held between the Discharger and Central Coast Water Board staff to discuss the information that needed to be included in the long-term plan. However, a long-term plan was still pending when the Discharger determined that additional fuel management was required in June 2020. The Discharger also determined that an expanded area of fire fuel load reduction activities was needed in 2020 to 102 acres of total work area within the Salinas River and floodplain.

In addition to fuel load reduction activities, the Discharger has also been conducting annual vegetation maintenance and sediment removal for flood control purposes within the Salinas River watershed since 2015. Due to the similarity of the fuel load reduction and flood control activities, Central Coast Water Board staff determined that permitting for both types of activities would be most efficient if combined into a single waste discharge requirements order.

On July 31, 2020, the Discharger submitted a report of waste discharge (or permit application) for the Project describing past and proposed future temporary impacts and discharges of waste to waters of the state. The Project will be implemented in the Salinas River watershed within the limits of the City of El Paso de Robles. The Project includes flood control work in 19 tributary drainages and two basins, as well as fire fuel load reduction work in the Salinas River channel and floodplain. Flood control activities

will result in direct, recurring, temporary impacts to waters of the state over an area of approximately 0.8 acres and 56,035 linear feet. Fire fuel load reduction activities will result in direct, recurring, temporary impacts to the Salinas River channel and floodplain over an area of approximately 140 acres and 20,026 linear feet. The flood control component of the Project consists of manual vegetation treatment and mechanical and manual sediment removal, which will enhance the channel capacity and stormwater flow in drainages throughout the city. The fire fuel load reduction component of the Project consists of mechanical and manual vegetation treatment, low-intensity prescribed burns, and livestock grazing, reducing hazardous fire fuels within the Salinas River channel and floodplain. Both flood control and fire fuel load reduction components will take place annually.

Proposed Order Considerations

Fire has been a serious threat in recent years in the Project area of the Salinas River due to increased incidence of ignitions and an abundance of fire fuel. The Discharger has determined that annual vegetation maintenance is required to reduce the risk to the community in the area. Impacts from the proposed annual fire fuel load reduction activities will result in discharges of waste and impacts to beneficial uses of waters of the state. In developing the Project, the Discharger has considered avoidance and minimization of impacts to the Salinas River to the extent practicable, while still enabling achievement of Project objectives. Where avoidance and minimization of impacts have been determined to not be feasible, the Discharger has proposed mitigation that will offset Project impacts to ensure protection of water quality and beneficial uses of the Salinas River.

Central Coast Water Board staff and the Discharger coordinated extensively in the development of parameters for identifying areas for maintenance and protection. The Paso Robles Fire Department was consulted to help delineate critical maintenance areas for fire fuel load reduction within the Salinas River. Within these critical areas, sensitive habitats, including low-flow channels, wetlands, riparian vegetation associated with flow channels, and surface waters, will be identified during pre-project surveys and will be avoided. Where feasible, vegetation will be limbed, but not removed, to preserve canopy cover.

The proposed order includes criteria for categorizing vegetation into different levels of fire risk (fuel models), depending on the density and type of vegetation. Because each fuel model has a different level of risk for fire spread, treatment of each fuel model requires varying amounts of fuel reduction. The Discharger and Central Coast Water Board staff have coordinated to develop desired fuel load criteria (in tons per acre) for each fuel model. These criteria identify the acceptable amount of fire fuel reduction that may occur while ensuring excessive vegetation removal is avoided. The Discharger will choose between mechanical and manual vegetation treatment, controlled burns, and livestock grazing to reduce the fire fuel to an acceptable level while minimizing disturbance as much as possible.

Criteria for sediment and vegetation removal for flood risk management were also developed and are included in the proposed order. The Discharger will conduct the minimum amount of maintenance necessary to maintain the capacity of the drainages for flood control.

The Project will result in temporary, repeated disturbance within waters of the state, impacting the values and functions of waters of the state and degrading beneficial uses such as warm freshwater habitat and wildlife habitat. As such, mitigation is required by the proposed order to offset these impacts and maintain beneficial uses of waters of the state. In addition, mitigation is required for past unpermitted fire fuel reduction activities conducted by the Discharger that impacted waters of the state. Cumulative impacts from these past activities have been quantified, and the proposed order includes mitigation requirements for these impacts as well as for impacts from proposed future actions.

Mitigation requirements have been designed to be flexible for the Discharger, so that the best combinations of mitigation sites and methods are selected to offset Project impacts. The proposed order allows for a combination of mitigation approaches that includes riparian enhancement and rehabilitation, invasive species removal, and trash removal. The Discharger has proposed potential mitigation sites both within the Salinas River channel and in tributary drainages and has developed selection criteria to guide the decision-making process for final mitigation site selection. Final mitigation sites are required to be selected during the third year of annual maintenance, and implementation of mitigation is required to begin during the fourth year of annual maintenance. Total mitigation area required will be based on the cumulative area of past fire fuel reduction actions and proposed future Project actions. Success criteria for health and survival of mitigation areas have been developed and are incorporated into the proposed order. These measures will ensure that any unavoidable temporary impacts will be mitigated and that the Project will not result in net impacts to beneficial uses or losses in the values and functions of waters of the state.

Multiple requests from Central Coast Water Board staff for supplemental information regarding their proposed activities have been addressed by the Discharger. Central Coast Water Board staff also transmitted a draft proposed order to the Discharger prior to the public comment period to seek feedback and inform development of the proposed order. Staff has reviewed and provided comments on multiple iterations of the report of waste discharge, including the monitoring, reporting, and mitigation requirements. The conditions in the proposed order are the result of ongoing collaboration with the Discharger and reflect the purpose of the Project to control fire and flood risk as well as protect water quality and beneficial uses.

Monitoring and Reporting Program

The proposed order includes a comprehensive monitoring and reporting program to quantify ongoing impacts and to ensure the Project is implemented according to the criteria in the proposed order (Attachment 3).

Project monitoring will occur before, during, and after maintenance activities each year. The Central Coast Water Board will review pre-maintenance monitoring provided by the Discharger's annual workplan that needs to be submitted by March 15 of each year. Specific areas for maintenance will be identified through this pre-maintenance monitoring. Maintenance methods will be selected based on conditions identified in the pre-maintenance surveys, and maintenance will be conducted in a manner that will cause the minimum impact necessary to effectively manage vegetation and sediment. For example, if only grass cover is identified in critical maintenance areas for fire fuels reduction, only low-impact livestock grazing will be used, minimizing Project impacts to riparian habitat. Annual reports submitted after the completion of maintenance activities will include impact monitoring through drone imagery and pedestrian surveys.

Monitoring will help confirm that activities have been conducted in accordance with the methods approved in the proposed order. The annual report will also quantify cumulative total maintenance area, cumulative area of canopy removed, and any mitigation that has been installed. Areas where mitigation has been implemented will be compared to quantitative mitigation success criteria and any necessary corrective actions will be described.

Human Right to Water

California Water Code section 106.3, subdivision (a) states that it is a policy of the State of California "that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitation purposes." On January 26, 2017, the Central Coast Water Board adopted Resolution No. R3-2017-0004, which affirms the realization of the human right to water and the protection of human health as the Central Coast Water Board's top priorities. The proposed order is consistent with Resolution No. R3-2017-0004 by requiring the Discharger to implement the Project in a manner protective of water quality and the beneficial uses of the Salinas River and other waters of the state, including as necessary for the protection of human health.

Disadvantaged Communities

The Central Coast Water Board implements regulatory activities and water quality projects in a manner that ensures the fair treatment of people of all ethnicities, cultures, backgrounds, and income levels, including disadvantaged communities (DACs). Additionally, the Central Coast Water Board is committed to providing all stakeholders the opportunity to participate in the public process and provide meaningful input to decisions that affect their communities.

The proposed order regulates annual vegetation management and sediment removal activities conducted in the Salinas River watershed. According to 2016 census data, two block groups of disadvantaged communities and two block groups of severely disadvantaged communities exist in the City of El Paso de Robles, representing approximately one quarter of the city population. Central Coast Water Board staff has determined that the regulation of this Project in compliance with the proposed order will

not pose a significant threat to water quality and is therefore unlikely to impact DACs. If impacts to surface water results from the discharges regulated by the proposed order, Central Coast Water Board staff will help facilitate outreach and education to inform affected parties and connect them with available resources.

Climate Change

The Central Coast faces the threat and the effects of climate change for the foreseeable and distant future. To proactively prepare and respond, the Central Coast Water Board has launched the Central Coast Water Board's Climate Action Initiative, which identifies how the Central Coast Water Board's work relates to climate change and prioritizes actions that promote adaptation and mitigation to improve resilience and protect beneficial uses. The Climate Action Initiative is consistent with the Governor's Executive Order B-30-15 and the State Water Board's Climate Change Resolution No. 2017-0012.

The proposed order aligns with the Climate Action Initiative's objectives. To take steps towards building climate change resiliency on the Central Coast, the proposed order requires the Discharger to identify and assess maintenance locations and methods on an annual basis and consider factors influencing the likelihood of success of different mitigation sites. The Order has allowed flexibility in methods for conducting annual maintenance and mitigation implementation that are responsive to and could improve resilience to flooding, temperature fluctuations, drought, and fires that could be exacerbated by climate change.

COMMENTS

The Discharger was the only stakeholder to submit comments on the January 26, 2021 publicly noticed proposed order. A response to comments is provided as Attachment 4.

The Discharger made multiple comments related to the condition in the proposed order requiring the Discharger to obtain written approval of the annual workplan from the Central Coast Water Board Executive Officer before the Discharger can commence annual maintenance activities. The Discharger was concerned about delays that could put them behind schedule for managing fire hazard. Central Coast Water Board staff recognizes the need for timely action to protect the surrounding community. Staff revised the proposed order to allow the Discharger to proceed according to the annual workplan if the Central Coast Water Board Executive Officer fails to respond to the annual workplan by April 14 of each year (30 days after submittal of the annual workplan).

The Discharger also provided suggestions for minor language changes to clarify Project background, purpose, and requirements as well as to provide updated information that was unavailable at the time of circulation of the proposed order. Central Coast Water Board staff revised the proposed order in response to the Discharger's comments. The Discharger has indicated it is agreeable to staff's proposed responses and revisions incorporated in the proposed order.

CONCLUSION

Proposed Order No. R3-2021-0012, including the monitoring and reporting program, provides implementation, monitoring, and reporting requirements for the City of El Paso de Robles Annual Flood Control and Fire Fuel Load Reduction Project. This proposed order is necessary to regulate activities associated with the discharge of waste associated with flood control and fire fuel reduction activities. The proposed order has been developed in compliance with state and federal guidance and regulations. The proposed order meets requirements through Project-specific provisions and restrictions, maintenance criteria, inspections, monitoring, reporting, and mitigation. If implemented in compliance with the proposed order, the Project's proposed activities will protect water quality and beneficial uses while also providing the City the ability to reduce the risk of flood and fire for their community.

RECOMMENDATION

Adopt Proposed Order No. R3-2021-0012

ATTACHMENTS

1. Proposed Order No. R3-2021-0012
2. Proposed Order No. R3-2021-0012 Exhibits
3. Monitoring and Reporting Program No. R3-2021-0012
4. Comments and Staff Responses