Sidnie Olson

From: Kasey Ashley [KAShley@waterboards.ca.gov]
Sent: Monday, January 26, 2009 8:59 AM
To: Sidnie Olson
Subject: Marina Center Draft EIR

Attachments: Comments Draft EIR.doc

Comments Draft EIR.doc (32 KB)...

Good Morning Sidnie,

I only read three parts of this huge document. my comments are attached. You will also get these in a letter from our agency along with other comments.

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Comments on Marina Center Project Draft EIR
SCH #2006042024

III. Project Description

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California Regional Water Quality Control Board
North Coast Region
Bob Anderson, Chairman

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5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403
Phone: (877) 721-9203 (toll free) • Office: (707) 576-2220 • FAX: (707) 523-0135

Linda S. Adams
Secretary for Environmental Protection

Arnold Schwarzenegger
Governor

January 30, 2009

Ms. Sidnie L. Olson
Eureka Community Development Department
531 K Street
Eureka, CA 95501

Dear Ms. Olson:

Subject: Regional Water Board Comments on the Draft Environmental Impact Report (DEIR) for the Marina Center Project, Eureka, Humboldt County, SCH No. 2006042024

Thank you for the opportunity to comment on the DEIR for the Marina Center Project. We appreciate the chance to respond and express concerns early in the environmental review process relating to our own statutory responsibility. The North Coast Regional Water Quality Control Board (Regional Water Board) is a responsible agency for this project, as defined by the California Environmental Quality Act (CEQA) having jurisdiction over the quality of ground and surface waters (including wetlands) and the protection of the beneficial uses of such waters. The DEIR identifies probable environmental impacts and suggests mitigation measures to minimize the significance of those impacts.

We have reviewed the document prepared for the Marina Center Project and offer the following comments and recommendations, in our role as a trustee and responsible agency under CEQA.

General Comments

Overall, we strongly support the efforts of City staff and other interested parties in developing the document. While there are a number of very positive mitigation measures in the DEIR, we are concerned that development related impacts will result in significant degradation to surface and ground water quality. Specifically, impacts related to loss of riparian and wetland areas, storm water pollution, hydromodification and site remediation will need to be mitigated to the fullest extent possible. In order to ensure that water quality objectives are met in the future, it is critical that impacts from new development be fully mitigated. Growth-related development in the area has contributed to the impairment of water quality, often through the discharging of pollutants to surface water and ground waters. Appropriate best management practices

(BMPs) for the prevention of pollution must be implemented and monitored to ensure protection of water quality. The Regional Water Board is responsible for protecting the quality of waters of the State, which include all ground and surface waters within the State.

Specific Comments

D. Biological Resources

1. Impacts to wetlands and waters of the State

The Regulation of Wetlands Section on page IV. D-17 does not discuss the Water Quality Control Plan for the North Coast Basin (Basin Plan) (http://www.waterboards.ca.gov/northcoast/water_issues/programs/basin_plan/083105-bp/070605_Basin_Plan.pdf. The DEIR needs to acknowledge the definition of waters of the state which is: Water Code Section 13050 (e) "Waters of the state" means any surface water or groundwater, including saline waters, within the boundaries of the state" and includes but is not limited to all waters of the United States.. The Final EIR (FEIR) must identify all surface waters that could be impacted by the proposed project, including, but not limited to wetlands, springs, drainage channels, creeks, and the Clark Slough. The FEIR must clearly identify all potential adverse impacts to these waters and mitigation measures that will be implemented to protect them. These impacts should first be adequately evaluated to see if any can be avoided or minimized. All efforts to first avoid and second to minimize impacts to waters of the State must be fully exhausted prior to deciding to mitigate for their loss. If after careful and adequate evaluation, the project's impacts to waters of the State are deemed unavoidable, then compensatory mitigation (for acreage, function and value) will be necessary for any unavoidable impacts. For example, seasonal wetland impacts must be mitigated by seasonal wetland mitigation; linear watercourse impacts must be mitigated by linear watercourse mitigation. Our staff may require a greater that 1:1 mitigation ratio as a condition of approval for this project.

For unavoidable impacts to waters of the State, water quality certification under section 401 of the Clean Water Act and/or Waste Discharge Requirements (Dredge/Fill) from the Regional Water Board will be necessary. United States Army Corps of Engineers Clean Water Act Section 404 permits and Department of Fish and Game stream alteration agreements may also be necessary.

2. Storm water

H: Hydrology and Water Quality

Page IV.H-19 states that "the proposed project would result in the conversion of nearly 29 acres of the approximately 43-acre site into impervious surfaces and would result in an increase in peak discharge from the project site...without proper mitigation, development of the project site could increase the levels of NPS urban pollutants and litter entering Humboldt Bay. An increase in NPS pollutants could adversely affect the beneficial uses of the bay."

Mitigation Measure H-4a: The project applicant shall prepare a drainage plan indicating the specifics of the project drainage system. The drainage plan shall demonstrate that the culverts are adequately sized and configured to address peak runoff and protect against a 10-year storm event. The drainage plan shall ensure that any increase in storm water drainage runoff in a 10-year storm event remains below 1 cfs. Alternatively, if the 1 cfs threshold cannot be maintained in a projected 10-year storm event, the drainage plan shall provide a retention/siltation basin that limits storm water runoff to pre-project flows. The plan shall be submitted to and approved by the City of Eureka, and recommendations from the City shall be adopted by the project applicant prior to issuance of a building permit.

Mitigation Measure H-5a: The applicant shall treat storm water at drop inlets that capture runoff from roof drains, paved pedestrian areas, and parking, prior to connection to the City's storm drain system. The project applicant shall prepare and implement a permanent maintenance program for storm water treatment facilities on the project site.

Mitigation Measure H-5b: The project applicant shall incorporate grassed swales (biofilters) into the project landscape plan, to the extent feasible, for runoff conveyance and filtering of pollutants. The maintenance of biofilters on the project site shall be the responsibility of the project applicant.

Mitigation Measure H-5c: The applicant shall ensure that only USEPA-approved herbicides and pesticides are used on the site in any area that might drain to aquatic environments.

These mitigation measures rely extensively on filters and other proprietary storm water BMPs. The Regional Water Board has been directed by the State Water Board, in a resolution adopted on May 6, 2008, (http://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2008/rs2008_0030.pdf) to incorporate low impact development (LID) in regulatory actions. We recommend that the mitigation measures provide guidance to develop the project in accordance with LID strategies to treat storm water to the maximum extent practicable in accordance with the City's storm water permit coverage and for ease of further permitting by our agency. Filters may not be effective in treating storm water and require higher maintenance than landscape-based BMPs.

The quality of storm water runoff is directly correlated to the extent of impervious surfaces within a watershed. We strongly encourage disconnection of impervious areas from storm drain systems and routing to vegetated areas where possible. We support infiltrating treated storm water runoff into the ground as a means of treating it and recharging ground water supplies. This helps to buffer low summer/fall flows which in turn help to reduce water scarcity and creek temperatures. Please see the attached list of Storm Water and LID resources we have included for your benefit in proceeding with this project.

All newly installed impervious surfaces (runway, roads, roofs, sidewalk, etc.) must incorporate post-construction storm water BMPs to remove any contaminants, and to attenuate peak flows, before discharge to waters of the State. We strongly encourage the use of LID techniques to address potential storm water impacts as close to the source as possible. Dry detention basins (particularly those with limited detention times) are not effective for pollutant removal. Permeable pavements can have significant benefits as long as subdrains are not needed. LID techniques promote healthy aquatic systems and can reduce flood and drainage control costs over time. Post-construction storm water treatment controls are vital in protecting water quality from the effects of increased storm water runoff from new development.

Hydromodification

Recent studies have confirmed that increased impervious surfaces within a watershed will lead to alteration of the natural hydrology expressed as higher winter flows (peak flows) and lower summer/fall flows (base flows). Alteration of the natural flow regime (hydromodification) can result in increased stream temperatures associated with base flows, alteration of the channel morphology (e.g. widening or incising of stream channel) associated with increased peak flows, adverse impacts to native riparian vegetation and reduction in ground water recharge capabilities. The design and construction of new development projects using LID can protect natural flow regimes and reduce the impacts of hydromodification and thus help prevent adverse impacts to stream and wetland systems.

3. Clean ups Comments on Marina Center Project Draft EIR

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4. Wastewater

Q. Utilities and Service Systems

The City of Eureka City's Elk River Waste Water Treatment Plant (WWTP) operates in accordance with the National Pollutant Discharge Elimination System (NPDES) permit requirements administered by our agency. The permit was issued in 2004 and is valid through March 2009. The permit sets limitations on the treated effluent quality and quantity discharged into Humboldt Bay.

As stated, the WWTP operates at approximately 70 percent of the permitted capacity in dry weather conditions and at 100 percent of the permitted capacity during peak wet

weather events. We are concerned that the City's WWTP capacity for the development of this project may be inadequate. This project will need to demonstrate adequate capacity for planned growth resulting from this project.

5. Required Permits for this Project

The following summarizes project permits that may be required by our agency depending upon potential impacts to water quality:

Water Quality Certification (401 Certification): Permit issued for activities resulting in dredge or fill within waters of the United States (including wetlands). All projects must be evaluated for the presence of jurisdictional wetlands and other waters of the State. Destruction of or impacts to these waters should be avoided. Under the Clean Water Act Sections 401 and 404, disturbing wetlands requires a permit from the United States Army Corps of Engineers (ACOE) and a State 401 water quality certification. To determine whether wetlands may be present on any proposed construction site, please contact Jane Hicks of ACOE at (415) 977-8439. If wetlands or other waters of the State are present, please contact Mark Neely at (707) 576-2689. Alterations or work within or adjacent to streambeds or lakes may also require a 1602 Lake and Streambed Alteration Agreement from the California Department of Fish and Game (CDFG). Removal of riparian vegetation also requires this permit. We recommend that all applicants contact CDFG for additional information on these requirements.

Waste Discharge Requirements (WDRs) or a Conditional Waiver of WDRs: Under authority of the California Water Code, the Regional Water Board may issue WDRs for any project which discharges or threatens to discharge waste to waters of the State. Projects that impact waters of the State (including any grading activities within stream courses or wetlands) require permitting by the Regional Water Board. The Regional Water Board may also require permits for discharges of post-construction storm water runoff and on-site septic systems accepting 1,500 gallons or more per day. An application may be printed from the State Water Resource Control Board website at: www.swrcb.ca.gov/sbforms/.

General Construction Activity Storm Water Permit: Land disturbances on proposed projects of one acre or more require a general construction storm water permit. If the land disturbance will be in excess of one acre, the owner of the property will need to apply for coverage under this permit prior to the commencement of activities on-site. This permit requires the preparation and implementation of a Storm Water Pollution Prevention Plan (SWPPP) that identifies BMPs to minimize pollutant discharges from the construction site. The permit also requires inspections of construction sites before and after storm events, and every 24 hours during extended storm events. The purpose of the inspections is to identify maintenance requirements for the BMPs and to determine the effectiveness of the

implemented BMPs. Owners may call our office to receive a permit package or download it off the Internet at www.waterboards.ca.gov.

If you have any questions or comments, please contact me at (707) 570-3761 or by email at MDougherty@waterboards.ca.gov

Sincerely,

Mona Dougherty
Water Resources Control Engineer

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cc: Mr. Scott Morgan, State Clearing House, P.O. Box 3044, Sacramento, CA 95812 RE: SCH No. 2006042024

Michael G. van Hattem, Coastal Conservation Planning Northern Region, California Department of Fish and Game, 619 Second Street, Eureka, Ca 95501

Low Impact Development Resources

Puget Sound LID manual:
http://www.psp.wa.gov/downloads/LID/LID_manual2005.pdf

Resolution of the California Ocean Protection Council Regarding Low Impact Development:
http://www.resources.ca.gov/copc/05-15-08_meeting/05_LID/0805COPC05_%20LID%20Res%20amended.pdf

Low Impact Development Center:
http://www.lowimpactdevelopment.org/

Green Infrastructure Municipal Handbooks:
http://cfpub2.epa.gov/npdes/greeninfrastructure/munichandbook.cfm

Marin County's LID manual:
http://www.mcstoppp.org/acrobat/GuidanceforApplicantsv_2-5-08.pdf

San Diego County's LID manual – has a section on LID for roads:
http://www.sdcounty.ca.gov/dplu/docs/LID-Handbook.pdf

Low Impact Development – Sustainable Storm Water Management:
http://www.waterboards.ca.gov/water_issues/programs/low_impact_development/

EPA Green Infrastructure Basic Information:
http://cfpub.epa.gov/npdes/greeninfrastructure/information.cfm

Managing Wet Weather with Green Infrastructure:
http://cfpub.epa.gov/npdes/home.cfm?program_id=298

State Water Board Funded Projects That Include Low Impact Development:
http://www.waterboards.ca.gov/water_issues/programs/grants_loans/low_impact_development/

City of Portland's Sustainable Storm Water Management Program – LID for streets:
http://www.portlandonline.com/bes/index.cfm?c=34598

Low Impact Development Center – Green Highways and Green Infrastructure:
http://www.lowimpactdevelopment.org/green_highways.htm

Streetscape improvements and water quality design:
http://www.lowimpactdevelopment.org/nhb/lid.htm

Low Impact Development for Roads - Washington State Green Building for Transportation Infrastructure webpage: http://www.metrokc.gov/kcdot/roads/eng/lid/militarys272/index.cfm

LID Urban Design tools – has design software for different BMPs:
http://www.lid-stormwater.net/homedesign.htm

LID design fact sheet:
http://www.coastal.ca.gov/nps/lid-factsheet.pdf

LID Training Program for Linear Transportation Projects:
http://www.lowimpactdevelopment.org/epa03_transportation.htm

Storm Water Management and LID at EPA headquarters – BMP choice and design:

http://www.epa.gov/owow/nps/lid/stormwater_hq/

http://sustainablesites.org/

A Review of Low Impact Development Policies: Removing Institutional Barriers to Adoption:
http://www.waterboards.ca.gov/lid/docs/ca_lid_policy_review.pdf

Storm Water Resources:

The CASQA Construction BMP manual:
http://www.cabmphandbooks.com/Construction.asp

This is our MS4 website that has storm water and LID links:
http://www.waterboards.ca.gov/northcoast/water_issues/hot_topics/santa_rosa_ms4_npdes_stormwater_permit/

State Water Board Storm Water Program:
http://www.waterboards.ca.gov/water_issues/programs/stormwater/

Erase the Waste Campaign – California Storm Water Toolbox:
http://www.waterboards.ca.gov/water_issues/programs/outreach/erase_waste/

State Water Board Storm Water Grant Program:
http://www.waterboards.ca.gov/water_issues/programs/grants_loans/prop84/index.shtml

The San Francisco Regional Water Board storm water website:
http://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/stormwater/avail_docs.shtml

EPA Storm Water Program:
http://cfpub.epa.gov/npdes/home.cfm?program_id=6

Federal Funding Sources for Watershed Protection:
http://cfpub.epa.gov/fedfund/

California Stormwater Quality Association:
http://www.casqa.org/

Stormwater Manager's Resource Center:
http://www.stormwatercenter.net/

Post Construction BMPs:
http://www.stormwaterauthority.org/library/library.aspx?id=190

For more information, please contact Mona Dougherty at mdougherty@waterboards.ca.gov or John Short at jshort@waterboards.ca.gov