

CHAPTER 2

Master Responses

Some topics in the MEIR received multiple comments each. In order to provide thorough responses on these topics, master responses have been prepared that present a broad and comprehensive discussion of the key items of interest to the commenters. Response to each individual comment is provided in Chapter 3, Response to Comments. In the event that one of these major topics is raised in an individual comment, where appropriate, a brief response is provided and the commenter is referred to one of these master responses for a complete discussion.

2.1 SMMP Implementation and Funding

Introduction

Comments regarding the SMMP implementation and funding are addressed here. The responses to individual comments are presented in Chapter 3.0, Response to Comments. Relevant comments received on this topic were made in the following comment letters: B-2, B-4, B-7, B-8, B-10, B-19, B-20, B-22, B-29, B-31, B-34, B-36, B-38, B-43, B-46, B-49, B-51, B-59, D-5, D-8, F-4, F-5, F-6, F-7, I-2, J-4, K-4, K-12, L-17, S-3, T-1, X-1, U-3, U-15, and U-16.

Discussion

The SMMP has been developed to guide the provision of regional flood protection within the Livermore Valley and to provide a regional framework for implementation of a multi-disciplinary stream management plan for flood protection and other purposes within Zone 7's service area. The individual projects within the SMMP have been developed to meet multiple-use objectives (See SMMP page ii regarding the SMMP study area, and SMMP Chapter 2 regarding goals and objectives). Within this context, the SMMP MEIR describes the types of projects anticipated to be undertaken, including necessary entitlements; ranges of the "intensity" anticipated for these projects, *e.g.*, the capacity or area to be served; anticipated locations for the projects; and either i) a plan for development of a capital outlay or capital improvement program, or ii) other scheduling or implementing device that governs the submission and approval of subsequent projects. With this information, the Lead Agency, responsible agencies and members of the public can review the overall SMMP, and the individual projects that have been developed in furtherance of the SMMP's specific goals and objectives.

The SMMP acknowledges that site specific engineering, economic evaluation, and environmental analysis will be required in order to implement any of the projects identified under the SMMP, and Zone 7 recognizes that key components of individual projects, including overall cost, property acquisition rights, facility design, and implementation timing will need to be developed as part of subsequent phases of the SMMP planning process. The key component of this next phase is the SMMP Implementation Plan, which is discussed in SMMP Chapter 6. Scheduled to begin in Fall 2006, the SMMP Implementation Plan will accomplish the following:

- Prioritize and identify sequencing and funding constraints for the individual projects;
- Identify funding mechanisms;
- Provide a 5-year Capital Improvements Plan;
- Provide a 10-year Capital Improvements Plan; and
- Identify a 30-year Capital Improvements Plan.

As a part of the SMMP Implementation Plan, Zone 7 will prioritize the projects within the SMMP based upon a variety of factors, including multi-use benefit, engineering feasibility, environmental impact, economic cost, project sequencing, and right-of-way acquisition. The SMMP Implementation Plan will identify a 5-Year Capital Improvements Plan (“CIP”), a 10-Year CIP, and 30-Year CIP. The CIPs will include specific funding mechanisms for their implementation for consideration by the Zone 7 Board of Directors. Upon adoption of the 5-Year CIP, Zone 7 then will implement the project-specific engineering, environmental, and right-of-way analysis that will be necessary to implement individual SMMP projects. During this individual project development, specific issues relating to individual projects noted by individual commenters, such as facility design, interagency coordination, environmental mitigation, permitting, and property acquisition rights, will be addressed. As noted in the SMMP, project-specific CEQA analysis will be conducted in order to implement the individual projects of the SMMP. (See, SMMP § 6.3.1, regarding CEQA compliance).

A key purpose of the SMMP is to identify projects that could be implemented or co-sponsored by other agencies within the SMMP study area. As such, Zone 7 recognizes the importance of coordination with other agencies to prioritize individual projects, coordinate design criteria, and identify funding sources that distribute project costs both in terms of flood management benefit and other multi-use benefits. (See, SMMP §§ 2.1 and 6.2.2 regarding multi-agency collaboration). The SMMP Implementation Plan, including funding mechanisms for the SMMP 5-year, 10-year, and 30-Year CIPs, will be developed through coordination with municipal and recreational agencies within the SMMP study area. Prior to Zone 7’s adoption of a funding and project phasing program, Zone 7 will work with local agencies on interim solutions which further the goals, objectives and projects identified in the SMMP.

2.2 Use of Master EIR

Introduction

Comments regarding the use of Master EIR are addressed here. Responses to individual comments are presented in Chapter 3.0, Response to Comments. Relevant comments received on this topic were made in the following comment letters: A-1, B-2, B-31, B-63, C-8, D-1, D-2, D-5, D-6, D-8, D-10, D-12, H-2, L-1, L-3, L-4, L-5, L-16, L-17, U-1, U-3, and U-14.

Discussion

As discussed in Chapter 1, Introduction, of the MEIR, Zone 7 has prepared the MEIR to provide the public, the lead agency, and responsible and trustee agencies with information about the potential effects, both beneficial and adverse, on the local and regional environment associated with approval and implementation of the SMMP and, where possible, to identify impacts and mitigation measures associated with the 45 individual projects described in SMMP Chapter 5. (See MEIR Chapter 3 regarding impacts and mitigation measures, Chapter 4 regarding growth-related impacts and Chapter 5 regarding cumulative impacts).

The California Environmental Quality Act of 1970 (Pub. Res. Code § 21000 *et seq.*, “CEQA”) and the State CEQA Guidelines (14 Cal. Code Regs. § 15000 *et seq.*, the “Guidelines”) authorize preparation of a Master EIR to provide analysis of the environmental impacts of plans and programs upon which the approval of subsequent related development proposals can be based. The Master EIR process is an alternative to other CEQA processes for reviewing the environmental impacts of multi-phased plans or projects, such as a Project EIR, Program EIR, staged EIR and tiering environmental documents for subsequent projects upon earlier EIRs. At its discretion, a Lead Agency may prepare a Master EIR for specific kinds of projects involving broad policy decisions (Pub. Res. Code §§ 21157-21157.6; Guidelines §§ 15175-15179.5), including projects that consist of several smaller individual projects that are to be carried out in phases (Pub. Res. Code § 21157(a)(2); Guidelines § 15175(b)(3)). Here, since the SMMP includes Zone 7’s overarching infrastructure planning, represents a new approach to flood protection and drainage control and proposes a total of 45 subsequent projects, the MEIR is an appropriate vehicle to analyze environmental impacts at a broad-scale level. Indeed, the Governor’s Office of Planning and Research anticipates that a “drainage control project” is exactly the type of project for which a Master EIR may be prepared. *See*, State of California Governor’s Office of Planning and Research, Focusing on Master EIRs (3d ed., Nov. 1997), p. 2.

A Master EIR differs from a project-level EIR. It is a special type of EIR that must evaluate growth-inducing impacts, cumulative impacts and irreversible significant effects to the greatest extent feasible upfront (Pub. Res. Code § 21156; Guidelines § 15175(a)), thereby streamlining the subsequent environmental review processes that will be necessary before the projects anticipated in the Master EIR may be approved (Pub. Res. Code § 21157.1; Guidelines § 15177(a)). Here, the MEIR analyzes potential growth-inducing impacts on pages 4-1 through 4-5, and concludes that approval and implementation of the SMMP “will not result in growth inducement” (*Id.*, p. 4-5).

The MEIR analyzes potential cumulative impacts on pages 5-1 through 5-27, and determines that some mitigation is appropriate. The MEIR analyzes irreversible significant effects on pages 3.5-22, 3.5-24, 3.5-27, 3.12-16, 5-19, and 5-24, and concludes that some impacts can be mitigable on a project level.

Once a Master EIR is certified, the lead agency may use it as the basis for consideration of the environmental effects of subsequent projects that are within the scope of the Master EIR. The precise form that subsequent, project-specific environmental review will take will depend on the outcome of an initial study prepared for each of the subsequent projects. For the first five years after the certification of a Master EIR, agency review of later projects may be limited to the initial study, which first will determine whether the proposed project is “within the scope” of projects anticipated in the Master EIR (Pub. Res. Code § 21157.1(b); Guidelines § 15177(b)(2)) and then whether it may cause any additional significant effect on the environment that was not examined in the Master EIR, and if so, whether this new impact can be mitigated (*Id.*). Projects are considered “within the scope” of a Master EIR if they are described in that document, will have no new significant effects on the environment, and will not require any new mitigation measures or alternatives (Pub. Res. Code § 21157.1(c)). After the first five years, the agency will review the adequacy of the Master EIR and must make written findings before applying it to a later project, *i.e.*, that i) no substantial changes have occurred with respect to the circumstances under which the Master EIR was certified or that no new information, which was not known and could not have been known at the time that the Master EIR was certified, has become available, or ii) a subsequent or supplemental EIR has been certified and incorporated into the previously certified Master EIR. Later projects that are determined to be likely to result in new significant impacts may be covered either by a mitigated negative declaration (Guidelines § 15178(b)) or a focused EIR (Guidelines §§ 15178(c), 15179.5).

As discussed in Section 2.9 of the MEIR, the Zone 7 Board of Directors intends to use this MEIR to systematically identify potential environmental impacts associated with the approval and implementation of the SMMP as the long-term program guiding flood management within its service area, to identify feasible alternatives to approval and implementation of the SMMP and to identify mitigation measures that would avoid or substantially lessen potential significant impacts. As provided for in Guidelines Section 15152, this MEIR is intended to be used by Zone 7 and other agencies as a “first tier” document, with subsequent CEQA analysis of the 45 individual projects described in SMMP Section 5 to be focused solely on issues specific to those later projects. In addition, regulatory agencies may rely on this MEIR, in whole or in part, for the issuance of regulatory permits for the SMMP as a whole, or for individual projects as they are developed for implementation.

Consistent with the requirements of CEQA, the level of specificity in the MEIR need only correspond to the level of specificity involved in implementation of the SMMP. Guidelines Section 15146 states, “*The degree of specificity required in an EIR will correspond to the degree of specificity involved in the underlying activity which is described in the EIR.*”

- (a) *An EIR on a construction project will necessarily be more detailed in the specific effects of the project than will be an EIR on the adoption of a local general plan or comprehensive*

zoning ordinance because the effects of the construction can be predicted with greater accuracy.

- (b) *An EIR on a project such as the adoption or amendment of a comprehensive zoning ordinance or a local general plan should focus on the secondary effects that can be expected to follow from the adoption or amendment, but the EIR need not be as detailed as an EIR on the specific construction projects that might follow.”*

In the MEIR, Zone 7 has made a good faith effort to prepare a document that deals as specifically and comprehensively as possible with environmental impacts that could be caused by implementation of the SMMP. The SMMP is a Master Plan document that provides the framework for implementation of regional flood protection over approximately 426 square miles within Zone 7’s service area within the Upper Alameda Creek Watershed (see MEIR Figure 2-1, *Zone 7 Service Area and SMMP Project Area*). The document is necessarily regional in nature, and will be implemented as a series of individual projects which are described in SMMP Section 5 and which will be designed and implemented over the SMMP’s planning horizon, or approximately between certification of the MEIR/approval of the SMMP and 2030. Since, by its nature as a master planning document, the SMMP is less detailed, the analysis of environmental impacts in the corresponding MEIR also provides less detail than CEQA might require for some other type of project.

The MEIR includes detail sufficient to enable those who did not participate in its preparation to understand and to consider meaningfully the environmental issues raised. The level of analysis included in the MEIR informs public participation and provides Zone 7 and other agency decision-makers who will rely on it with the information necessary to make decisions that intelligently consider potential environmental consequences. Therefore, consistent with Guidelines, the degree of specificity provided in the MEIR corresponds appropriately to the level of specificity provided in the SMMP. Appropriately, additional project-specific details and impacts will be analyzed as the individual projects are developed.

2.3 SMMP Goals and Objectives

Introduction

Comments regarding the SMMP goals and objectives are addressed here. Responses to individual comments are presented in Chapter 3.0, Response to Comments. Relevant comments received on this topic were made in the following comment letters: B-23, B-25, L-2, M-11, U-3, U-3, and U-15.

Discussion

Zone 7 has developed the SMMP to replace its existing 1966 Flood Control Master Plan and to guide its new approach to multidisciplinary flood protection and stream management within the Zone 7 service area. In recent years, there have been a number of changes that impact the way agencies approach the management of streams. In recognition of these changes, Zone 7 began

development of the SMMP in September 2002. The resulting SMMP is a master plan that addresses flood protection and drainage issues, as well as other issues affecting management of the streams and arroyos. The SMMP focuses on a multidisciplinary approach to management by looking not only at flood protection, but other resource values affected by stream management and then identifying opportunities for other local agencies and Zone 7 to collaborate on mutually-beneficial management activities. As such, the SMMP focuses on six resource areas:

- Flood Protection and Drainage
- Erosion and Sedimentation
- Water Supply
- Water Quality
- Habitat and Environment
- Recreation, Trails and Public Education

Specific SMMP goals and objectives for each resource area are presented in SMMP Tables 2-1, through 2-6 and MEIR Table 2-2. For ease in reference, MEIR Table 2-2 is reproduced here (see Table 2-1).

These goals and objectives have been, and will continue to be, used to guide the development of individual projects identified in the SMMP. They were developed through an extensive stakeholder coordination process, and are aimed at resolving environmental and resource issues relating to stream management within the upper Alameda Creek Watershed. Regarding flood protection and drainage, specific SMMP goals include to: *Protect people, property, and stream corridors from damaging drainage and floods*. Therefore, although not specifically identified in the SMMP Resource Area Goals and Objectives, erosion and flooding issues on Arroyo de la Laguna in the vicinity of Verona Bridge and their impact on people and private property, are addressed in the SMMP. Revision of the SMMP resource areas, goals, and objectives is not anticipated. As Zone 7 begins development consistent with the SMMP, implementation of projects to address flooding and erosion on Arroyo de la Laguna will be prioritized within the context of the larger SMMP.

2.4 FEMA Floodplain Mapping, LOMR Revisions, and SMMP Modeling

Introduction

Comments regarding the FEMA floodplain mapping, LOMR revisions, and SMMP modeling are addressed here. Responses to individual comments are presented in Chapter 3.0, Response to Comments. Relevant comments received on this topic were made in the following comment letters: B2, B-6, B-15, I-1, J-1, J-2, J-3, S-1, S-4, T-1, and T-2.

TABLE 2-1
SMMP RESOURCE GOALS AND OBJECTIVES

Resource Area	Goal	Objectives
Flood Protection and Drainage	Protect people, property and stream corridors from damaging drainage and floods	A. Design and maintain streams and flood protection facilities to convey design flows while supporting natural ecosystem functions to the greatest extent possible. B. Implement improvements to flood protection system necessary to manage 100-year storm event at General Plan land use conditions. C. Modify FEMA 100-year flood zone as necessary to protect people and property. D. Promote multi-use concept for flood protection facilities. E. Promote coordination of flood protection and drainage projects between agencies.
Erosion and Sedimentation	Reduce or manage erosion and sedimentation in a manner that is compatible with other stream resources	A. Implement improvements necessary to eliminate or mitigate the effects of erosion and sedimentation on flooding, water quality, and native habitats. B. Develop long-term strategies as needed to streamline the permitting of sediment removal required to meet the flood protection and sediment objectives. C. Conduct sediment management and maintenance activities on flood protection facilities in a manner that allows conveyance of design flows while supporting natural ecosystem functions to the greatest extent possible.
Water Supply	Provide adequate conveyance of water for recharge and storage needs	A. Maintain adequate recharge capacity in average and drought years in Arroyo del Valle, Arroyo Mocho and Chain of Lakes to comply with Zone 7 groundwater management strategies. B. Maximize potable source water storage and recharge potential in Chain of Lakes. C. Maximize storage of non-potable supplies in Chain of Lakes, as appropriate. D. Coordinate storage and recharge strategies with plans for delivery of potable and non-potable water. E. Maintain streams and Chain of Lakes to accomplish storage and recharge objectives. F. Provide adequate water quantity to sustain native fisheries and other aquatic life.
Water Quality	Protect and enhance water quality of streams and groundwater	A. Protect surface and groundwater supplies. B. Coordinate with local and regional agencies to facilitate compliance with state and federal non-point source NPDES requirements. C. Minimize erosion and sediment accumulation in streams. D. Coordinate with local and regional agencies to eliminate impaired water body designations. E. Provide adequate water quality to sustain native fisheries and other aquatic life. F. Maintain streams and Chain of Lakes to meet above requirements.

TABLE 2-1 (continued)
SMMP RESOURCE GOALS AND OBJECTIVES

Resource Area	Goal	Objectives
Habitat and Environment	Protect and enhance aquatic and riparian habitat associated with streams and wetlands	A. Integrate environmental and habitat requirements into projected water management practices. B. Promote sustainable, native habitats wherever possible. C. Preserve and enhance stream buffers and riparian areas. D. Protect existing and create new wetlands with multiple use. E. Promote environmentally sensitive sediment removal practices. F. Maintain streams and Chain of Lakes to meet above objectives.
Trails, Recreation, and Public Education	Promote recreational, alternative transportation, and public education opportunities along streams and the Chain of Lakes	A. Promote community involvement in stream stewardship. B. Provide educational opportunities for students and the general public. C. Cooperate with local and regional agencies to implement appropriate recreational features along streams and the Chain of Lakes. D. Promote trails and recreation features that provide connectivity to existing or future planned trails, and recreational areas or facilities. E. Protect or enhance visual resources along streams. F. Incorporate public safety measures into recreational features along streams and Chain of Lakes. G. Promote the expansion of trails to develop alternative, non-motorized transportation corridors along the streams and arroyos.

Discussion

The Federal Emergency Management Agency (FEMA), through its Flood Insurance Rate Mapping (FIRM) program, designates areas where urban flooding could occur during 100-year and 500-year flood events (i.e., storms with a likelihood of occurring every 100 or 500 years). A 100-year floodplain is widely recognized as the standard for protection of property.

The floodplain map shown in Figure 2-4 in the MEIR is based on the latest FEMA maps. Figure 2-4 incorporates new changes including the areas that have been excluded from the floodplain according to the Letters of Map Revision (LOMRs) filed and accepted by FEMA as of March 2006. Therefore, the floodplain maps shown in the SMMP and the Draft MEIR are consistent with the floodplain areas that would currently be accepted by FEMA. The SMMP development process recognized that LOMRs will continue being updated as individual projects are implemented. The SMMP has been developed to provide a framework for regional flood protection and conveyance within the portion of the upper Alameda Creek Watershed within Zone 7's service area. A primary goal of the SMMP is to ensure that regional conveyance systems provide adequate flood protection. As such, the status of the individual LOMRs within the watershed does not affect the conclusions of the overall SMMP, which has been designed to address regional flood protection issues. As stated in **Master Response 2.1, SMMP Implementation and Funding**, and **Master Response 2.2, Use of Master EIR**, individual projects within the SMMP will be designed and implemented over time, and will reflect the status of site-specific hydrologic modeling at the time project-specific development is proposed. In other words, modeling of individual facilities will include incorporation of new LOMR updates, as appropriate.

Modeling for the SMMP is based on the best information available at the time of its preparation, as such information is reflected in the most recent general plans for the Cities of Dublin, Pleasanton, and Livermore, and Alameda County. Zone 7 recognizes that changes to individual General Plans have occurred, and will continue to occur over the implementation of the SMMP. Within certain areas of the Upper Alameda Creek Watershed, such as North Livermore, development projections have been revised downward. The 2003 Livermore General Plan update specifically includes changes in development plans for North Livermore. The SMMP uses pre-2003 modeling assumptions related to North Livermore.

Although land use patterns have changed, modeling conducted and used for the SMMP provides an appropriate regional estimate of flows. Under saturated conditions, the lack of development in North Livermore will have a minor effect on project flows for the 100-year event (slight decrease in flows). This slight decrease in flows would not be enough to remove areas from the floodplain, because the current channels are severely under capacity. Therefore a reduction in flows (due to less development in North Livermore) would not alter the current recommendations for improvements in the SMMP. As such, the SMMP presents a conservative projection of flows from that area. Within the context of Master Plan development, the modeling conducted and used for the SMMP represents a valid worst-case scenario in terms of flood protection planning. Implementation of additional modeling at this time, which would constitute a multi-year effort at

a cost of between \$200,000 and \$500,000, and would not result in additional information that would substantially alter the recommendations of the SMMP, is not warranted at this time.

As noted in Master Response 2.1, SMMP Implementation and Funding, and Master Response 2.2, Use of Master EIR, additional modeling on stream flows, sediment, and detention storage would be conducted in conjunction with preliminary design of individual projects, including the Chain of Lakes regional storage project, to verify timing, rates, and volumes of diversions to storage. This additional modeling is not expected to result in major reductions in predicted flows in Arroyo las Positas because the conditions that produce 100-year runoff events include saturated soils, which typically produce storm runoff nearly equal to paved conditions. The projects included in the SMMP provide appropriate guidance for the type of improvements needed and the level of funding required to meet the objectives defined by participating agencies and stakeholders as part of the master planning process.

With respect to both LOMR Maps and alterations in the General Plan, it is clear that both the geographic distribution of the 100-year flood plain and local development patterns will continue to change over time. However, as stated in CEQA Guidelines Section 15144, *“Drafting an EIR necessarily involves some degree of forecasting. While foreseeing the unforeseeable is not possible, an agency must use its best efforts to find out and disclose all that it reasonably can.”* Further CEQA Guidelines Section 15151 states, *“An EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible.”* Both the presentation of the 100-year flood plain in MEIR Figure 2-4, and the use of existing modeling to predict anticipated regional flow volumes associated with buildout under the applicable General Plans meet this CEQA standard.

2.5 Property Rights Acquisition

Introduction

Comments regarding property rights acquisition are addressed here. Responses to individual comments are presented in Chapter 3.0, Response to Comments. Relevant comments received on this topic were made in the following comment letters: B-49, M-1, M-2, M-3, M-4, M-6, M-7, M-10, M-13, M-14, Q-1, Q-2, and W-2.

Discussion

The SMMP is a Master Plan providing a regional, multi-disciplinary approach to flood protection. To the degree possible, Zone 7 has developed conceptual projects within the SMMP to address issues within certain stream reaches and to identify property acquisition goals. However, this identification is preliminary. The nature and extent of the necessary property rights will be determined on a project-by-project basis.

For the SMMP projects, Zone 7 prefers to proceed with property rights negotiations on a willing seller basis but reserves its eminent domain authority under the Alameda County Flood Control and Water Conservation District Act. Historically, Zone 7 has used this authority sparingly, and hopes to continue this approach with the implementation of the SMMP. Property rights acquisition would depend upon the individual project. Specific information on land acquisition, including costs, will be developed during the project-specific implementation phase to be consistent with areas that are included or removed based on the final engineering analysis. Issues concerning land rights acquisition costs specific to each project are beyond the scope of the MEIR. However, the environmental impacts identified in the MEIR for each project, and for the SMMP as a whole, are the same regardless of whether a specific property is acquired, or the method of that acquisition.

The regional approach to the SMMP will require cooperation among several agencies and private property owners, and Zone 7 intends to work with these entities to find workable solutions to the flood control issues that face the Valley.