



Central Valley Regional Water Quality Control Board

2 December 2019

Governor's Office of Planning & Research

DEC 02 2019

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City of Modesto
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STATE CLEARINGHOUSE

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COMMENTS TO REQUEST FOR REVIEW FOR THE DRAFT ENVIRONMENTAL IMPACT REPORT, CITY OF MODESTO WATER MASTER PLAN PROJECT, SCH#2016082069, STANISLAUS COUNTY

Pursuant to the State Clearinghouse's 15 October 2019 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the *Request for Review for the Draft Environmental Impact Report (DEIR)* for the City of Modesto Water Master Plan Project, located in Stanislaus County.

Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore our comments will address concerns surrounding those issues.

Recycled water use can help to reduce local water scarcity. It is not the only option for bringing supply and demand into a better balance, but it is a viable cost-effective solution that is appropriate in many cases. The feasibility of recycled water use depends on local circumstances which affect the balance of costs and benefits. In drought conditions, recycled water can be particularly valuable, given the scarcity of alternative supplies. In normal precipitation years recycled water use may reduce groundwater extraction. The proposed Water Master Plan Project's goal is to deliver safe and reliable water and meet the demands of existing and future City of Modesto water customers. However, the DEIR has identified a substantial adverse effect on groundwater through depletion of groundwater supply and potential interference with groundwater recharge. This is presented as an unavoidable impact with no feasible mitigation. We recommend the consideration of recycled water use wherever possible within the Project's area as a means to help minimize the groundwater depletion. Information on permitting for recycled water is in the section "Waste Discharge Requirements – Discharges to Land", below.

I. Regulatory Setting

Basin Plan

The Central Valley Water Board is required to formulate and adopt Basin Plans for all areas within the Central Valley region under Section 13240 of the Porter-

KARL E. LONGLEY SCD, P.E., CHAIR | PATRICK PULUPA, ESQ., EXECUTIVE OFFICER

Cologne Water Quality Control Act. Each Basin Plan must contain water quality objectives to ensure the reasonable protection of beneficial uses, as well as a program of implementation for achieving water quality objectives with the Basin Plans. Federal regulations require each state to adopt water quality standards to protect the public health or welfare, enhance the quality of water and serve the purposes of the Clean Water Act. In California, the beneficial uses, water quality objectives, and the Antidegradation Policy are the State's water quality standards. Water quality standards are also contained in the National Toxics Rule, 40 CFR Section 131.36, and the California Toxics Rule, 40 CFR Section 131.38.

The Basin Plan is subject to modification as necessary, considering applicable laws, policies, technologies, water quality conditions and priorities. The original Basin Plans were adopted in 1975, and have been updated and revised periodically as required, using Basin Plan amendments. Once the Central Valley Water Board has adopted a Basin Plan amendment in noticed public hearings, it must be approved by the State Water Resources Control Board (State Water Board), Office of Administrative Law (OAL) and in some cases, the United States Environmental Protection Agency (USEPA). Basin Plan amendments only become effective after they have been approved by the OAL and in some cases, the USEPA. Every three (3) years, a review of the Basin Plan is completed that assesses the appropriateness of existing standards and evaluates and prioritizes Basin Planning issues. For more information on the *Water Quality Control Plan for the Sacramento and San Joaquin River Basins*, please visit our website:

http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/

Antidegradation Considerations

All wastewater discharges must comply with the Antidegradation Policy (State Water Board Resolution 68-16) and the Antidegradation Implementation Policy contained in the Basin Plan. The Antidegradation Implementation Policy is available on page 74 at:

https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/sacsjr_201805.pdf

In part it states:

Any discharge of waste to high quality waters must apply best practicable treatment or control not only to prevent a condition of pollution or nuisance from occurring, but also to maintain the highest water quality possible consistent with the maximum benefit to the people of the State.

This information must be presented as an analysis of the impacts and potential impacts of the discharge on water quality, as measured by background concentrations and applicable water quality objectives.

The antidegradation analysis is a mandatory element in the National Pollutant Discharge Elimination System and land discharge Waste Discharge Requirements (WDRs) permitting processes. The environmental review document should evaluate potential impacts to both surface and groundwater quality.

II. Permitting Requirements

Construction Storm Water General Permit

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction Activities (Construction General Permit), Construction General Permit Order No. 2009-009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP). For more information on the Construction General Permit, visit the State Water Resources Control Board website at:

http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml

Phase I and II Municipal Separate Storm Sewer System (MS4) Permits¹

The Phase I and II MS4 permits require the Permittees reduce pollutants and runoff flows from new development and redevelopment using Best Management Practices (BMPs) to the maximum extent practicable (MEP). MS4 Permittees have their own development standards, also known as Low Impact Development (LID)/post-construction standards that include a hydromodification component. The MS4 permits also require specific design concepts for LID/post-construction BMPs in the early stages of a project during the entitlement and CEQA process and the development plan review process.

For more information on which Phase I MS4 Permit this project applies to, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/municipal_permits/

For more information on the Phase II MS4 permit and who it applies to, visit the State Water Resources Control Board at:

http://www.waterboards.ca.gov/water_issues/programs/stormwater/phase_ii_municipal.shtml

Industrial Storm Water General Permit

Storm water discharges associated with industrial sites must comply with the regulations contained in the Industrial Storm Water General Permit Order No. 2014-

¹ Municipal Permits = The Phase I Municipal Separate Storm Water System (MS4) Permit covers medium sized Municipalities (serving between 100,000 and 250,000 people) and large sized municipalities (serving over 250,000 people). The Phase II MS4 provides coverage for small municipalities, including non-traditional Small MS4s, which include military bases, public campuses, prisons and hospitals.

0057-DWQ. For more information on the Industrial Storm Water General Permit, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/industrial_general_permits/index.shtml

Clean Water Act Section 404 Permit

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed from the United States Army Corps of Engineers (USACE). If a Section 404 permit is required by the USACE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements. If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACE at (916) 557-5250.

Clean Water Act Section 401 Permit – Water Quality Certification

If an USACE permit (e.g., Non-Reporting Nationwide Permit, Nationwide Permit, Letter of Permission, Individual Permit, Regional General Permit, Programmatic General Permit), or any other federal permit (e.g., Section 10 of the Rivers and Harbors Act or Section 9 from the United States Coast Guard), is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications. For more information on the Water Quality Certification, visit the Central Valley Water Board website at:
https://www.waterboards.ca.gov/centralvalley/water_issues/water_quality_certification/

Waste Discharge Requirements – Discharges to Waters of the State

If USACE determines that only non-jurisdictional waters of the State (i.e., “non-federal” waters of the State) are present in the proposed project area, the proposed project may require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation. For more information on the Waste Discharges to Surface Water NPDES Program and WDR processes, visit the Central Valley Water Board website at:
https://www.waterboards.ca.gov/centralvalley/water_issues/waste_to_surface_water/

Projects involving excavation or fill activities impacting less than 0.2 acre or 400 linear feet of non-jurisdictional waters of the state and projects involving dredging activities impacting less than 50 cubic yards of non-jurisdictional waters of the state may be eligible for coverage under the State Water Resources Control Board Water Quality Order No. 2004-0004-DWQ (General Order 2004-0004). For more

information on the General Order 2004-0004, visit the State Water Resources Control Board website at:

https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2004/wqo/wqo2004-0004.pdf

Waste Discharge Requirements – Discharges to Land

Before beginning discharge of any wastewater to land, the property owner and operator (together) are required to have WDRs or other documents from the Regional Water Quality Control Board allowing discharge to land.

The use of recycled water for non-potable uses, e.g. landscape irrigation, crop irrigation, dust control, industrial/commercial cooling, decorative fountains, can help to reduce local water scarcity and minimize groundwater withdrawals. The State Water Resources Control Board's Water Quality Order 2016-0068-DDW, *Water Reclamation Requirements for Recycled Water Use* (Recycled Water General Order), regulates discharges of recycled or reclaimed water to land. The Recycled Water General Order establishes standard conditions for recycled water use and conditionally delegates authority to an Administrator to manage a Water Recycling Program and issue Water Recycling Permits to recycled water users. Under this order only treated municipal wastewater for non-potable uses can be permitted.

In accordance with California Water Code Section 13260, the project proponent is required to submit a Report of Waste Discharge (RWD) to apply for enrollment under the general order. We recommend that the RWD be submitted 6 to 12 months before the expected startup date.

Pursuant to the State Board's Onsite Wastewater Treatment Systems Policy, the regulation of the septic system may be regulated under the local agency's management program. Please note that only domestic wastewater coming from bathrooms and kitchens should be discharged to septic systems, to avoid negative impacts to groundwater.

For more information on waste discharges to land, visit the Central Valley Water Board Waste Discharges to Land website at

https://www.waterboards.ca.gov/centralvalley/water_issues/waste_to_land/.

Dewatering and Well-Development Discharge to Land

If the proposed project includes construction dewatering to be discharged to land, the proponent may apply for coverage under Water Quality Order 2003-0003-DWQ, *General Waste Discharge Requirements for Discharges to Land with a Low Threat to Water Quality* (Low Threat General Order). Small temporary construction dewatering projects are projects that discharge groundwater to land from, for example, excavation activities, water or monitoring well development and test pumping/purging, or non-contact cooling water. For certain other discharges which represent the absolute lowest threat to water quality, the Central Valley Water Board has adopted Resolution R5-2018-0085, *Waiver of Reports of Waste Discharge and WDRs for Specific Types of Discharge Within the Central Valley Region* (Specific Low-Threat Waiver). Dischargers seeking coverage under the

Low Threat General Order or the Specific Low-Threat Waiver must file at minimum a Notice of Intent with the Central Valley Water Board prior to beginning discharge.

For more information regarding the Low Threat General Order, visit the Central Valley Water Board Adopted Orders website, WQO 2003-0003 at https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0003.pdf.

For more information regarding the Specific Low-Threat Waiver, visit the Central Valley Water Board website, R5-2018-0085 at https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/waivers/r5-2018-0085.pdf.

Limited Threat NPDES Permit - Discharge to Surface Waters

If the proposed project includes construction dewatering and it is necessary to discharge the groundwater to waters of the United States, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. Dewatering discharges are typically considered a low or limited threat to water quality and may be covered under the General Order for *Limited Threat Discharges to Surface Water* (Limited Threat General Order). A complete Notice of Intent must be submitted to the Central Valley Water Board to obtain coverage under the Limited Threat General Order. For more information regarding the Limited Threat General Order and the application process, visit the Central Valley Water Board website at:

https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2016-0076-01.pdf

NPDES Permit

If the proposed project discharges waste that could affect the quality of surface waters of the State, other than into a community sewer system, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. A complete Report of Waste Discharge must be submitted with the Central Valley Water Board to obtain a NPDES Permit. For more information regarding the NPDES Permit and the application process, visit the Central Valley Water Board website at:

<https://www.waterboards.ca.gov/centralvalley/help/permit/>

If you have questions regarding these comments, please contact me at (916) 464-4812 or Jordan.Hensley@waterboards.ca.gov.

Original Signed By

Jordan Hensley
Environmental Scientist

cc: State Clearinghouse unit, Governor's Office of Planning and Research,
Sacramento (via email)