



MARIN COUNTY COMMUNITY DEVELOPMENT AGENCY

ALEX HINDS, DIRECTOR

April 17, 2007

Board of Supervisors
County of Marin
3501 Civic Center Drive
San Rafael, CA 94903

RE: East Shore Wastewater Improvement Project and Final Environmental Impact Report

Dear Board Members:

RECOMMENDATION

1. Staff recommends that the Board of Supervisors review the Final Environmental Impact Report (EIR) and the administrative record, consider the adequacy of the EIR and discuss any further clarification of issues raised;
2. Move to approve the attached Resolution to certify the East Shore Wastewater Improvement Project Final EIR as adequate and complete pursuant to CEQA, the State EIR Guidelines and the Marin County Environmental Review Guidelines and Procedures; and
3. Move to approve the attached Resolution approving the East Shore Wastewater Improvement Project.

The Board of Supervisors is requested to conduct a public meeting and take action to certify the Final EIR for the project. Consistent with County Environmental Review policy, a public hearing to receive testimony on the action to certify the Final EIR has not been scheduled for this meeting. The Final EIR was circulated to interested parties and the public for a 10-day review period ending March 26, 2007, to allow written comment on the adequacy of the Final EIR for certification. (There were no comments received on the Final EIR).

Following the Board's action to certify the Final EIR, the Board should consider the merits of the East Shore Wastewater Improvement Project ("Project"). In order to proceed with the project, as described below, staff is requesting the Board to take a number of initial actions, including formation of an onsite wastewater disposal zone and community wastewater system assessment district and to authorize staff to negotiate for the acquisition of a five-acre parcel on a portion of the Barinaga Ranch to be used for the leachfield and pump station. These subsequent actions have been included for your Board's consideration separately. Finally, the Marin County Deputy Zoning Administrator, as the subsidiary decision-making body, will rely on the Board-certified EIR, and the Board's project approval determination in its consideration of a Master Plan Waiver, Coastal Permit, and Use Permit for the project.

PROJECT OVERVIEW:

The Project is a public project sponsored by the Marin County Environmental Health Services Division. The proposed project has two primary elements: (1) construction of a community wastewater system to replace existing individual septic systems for up to 38 currently developed properties in the community of Marshall; and (2) formation of an onsite wastewater disposal zone to provide ongoing inspection, maintenance and monitoring oversight for the proposed Marshall community system as well as for the remaining onsite wastewater systems serving other existing developed properties in the project area. The proposed community wastewater system for Marshall will provide for the abandonment of existing septic systems, most of which are located immediately adjacent to Tomales Bay. The proposed wastewater facilities will consist of a septic tank effluent pump (STEP) collection system, approximately 5,000 lineal feet of effluent pipeline (force main) along State Route #1 right-of-way, and a community pressure-distribution leachfield system located on an approximate 5-acre site to be acquired from the Barinaga Ranch.

The project area is centered around the community of Marshall, extending from the vicinity of Nick's Cove in the north to approximately 1.0 mile south of the Marconi Conference Center. The project vicinity includes a total of approximately 100 developed residential and commercial properties located in several neighborhoods (Assessor's Parcel Numbers beginning at 104-150-01 and ending at 106-302-04). The project also includes portions of State Route #1 and portions of property known as the Barinaga Ranch (APN 106-210-73) located just south of the Marshall Post Office. This project is within the Coastal Zone and subject to the Coastal Act and LCP policies.

The EIR evaluated the environmental impacts associated with the project, including potential future expansion of the community wastewater system to serve approximately 20 additional existing developed properties located in the bay front neighborhoods south of Marshall to the vicinity of the Marconi Conference Center. As the local governing body, the County will oversee the proposed onsite wastewater disposal zone, which may be expanded in the future. The onsite management district is proposed to be formed in accordance with the provisions of the State Health and Safety Code, beginning with Section 6950.

EIR REQUIREMENT:

This is a public project being undertaken by the County. The Environmental Coordinator determined that a full scope EIR was required to comply with CEQA. In conformance with CEQA Guidelines Section 15060 (d), an Initial Study was not prepared.

EIR REVIEW PROCESS:

A Notice of Preparation (NOP) was prepared and circulated in January 2006 to public agencies and all interested parties for comment on the scope of the EIR. A public scoping session was conducted at an evening meeting in the community on February 16, 2006, to further identify environmental issues and concerns of the public for evaluation in the EIR. (Responses to the NOP and scoping comments are contained in the EIR appendix.)

The Draft EIR, a Notice of Completion (NOC), and notice of public hearing on the Draft EIR were distributed on November 27, 2006, to members of the Planning Commission, Board of Supervisors, State Clearinghouse, state and local agencies and special districts, surrounding property owners, and other interested groups and individuals. The NOC and notice of public hearing were published in a newspaper of general circulation to begin a 45-day public review and comment period on the adequacy of the Draft EIR. The public review and comment period ended on January 12, 2007.

On December 12, 2006, the Board of Supervisors conducted a public hearing to receive testimony on the Draft EIR. Following the close of the public hearing, the Board directed that a Final EIR Response to Comments be prepared after the close of the comment period on the Draft EIR.

Copies of the Final EIR Response to Comments and a notice of the date and place of the Board of Supervisors public meeting to consider recommendation for certification of the Final EIR were distributed to members of the Planning Commission, Board of Supervisors, agencies, EIR commentors and other interested parties. A Notice of the Meeting and Notice of Availability of the Final EIR was published in a newspaper of general circulation on March 16, 2007, to begin a 10-day public review and comment period on the Final EIR, which ended on March 26, 2007.

SUMMARY OF FINAL EIR:

IDENTIFIED IMPACTS

The Draft EIR identified a number of potentially significant impacts of the project. Most of the potentially significant impacts are under the categories of (1) geology and soils; (2) hydrology and water quality; and (3) public health and hazards. Mitigation measures have been identified in the Draft EIR to reduce all potentially significant project impacts to less than significant. Two listed beneficial impacts are: (1) the project will contribute to an improvement in the water quality of Tomales Bay, and (2) improved water quality will benefit the local mariculture industry.

PLAN CONSISTENCY

The Draft EIR evaluated the project's consistency with the Marin Countywide Plan, the Marin Countywide Plan Update, the Marin County Local Coastal Program, the East Shore Community Plan, the California Coastal Act, and other policies and regulations. The analysis concluded that the proposed project would be consistent with the applicable policies and regulations.

ALTERNATIVES

A number of alternatives to the proposed project were considered in the Draft EIR, including a No Project Alternative evaluating continued existing conditions, where individual property owners are responsible for the maintenance and repair of their own systems.

Other alternatives evaluated include:

1. Alternative service area.
2. Inspection and as-needed upgrades to all existing septic systems in the zone individually.
3. The construction of a central collection water system (STEP) system for the identified Phase 1 Service Area, leading to a community leachfield system located on the Leali property.
4. The development of a central wastewater collection system (STEP) for the Phase 1 Service Area, including secondary treatment, a winter storage pond, and seasonal irrigation.
5. A hybrid of the proposed project.
6. The no project alternative. This alternative describes the environmental effects of not approving the proposed project. This alternative would provide for the continued use of on-site septic systems, with individual property owners responsible for maintenance and repair of their own systems.
7. A mitigated project. This alternative includes all components of the project as proposed with the addition of the mitigation measures recommended in this EIR.

The mitigated alternative is identified as environmentally superior as it meets project objectives and eliminates all of the identified potentially significant impacts. No additional environmental review is required nor is recirculation of the Final EIR necessary because the mitigated alternative is feasible, meets the project objectives, and was adequately evaluated in the EIR.

RESPONSE TO COMMENTS ON THE DRAFT EIR AND FINAL EIR

Responses to all of the comments received during the 45-day public review period for the Draft EIR are included in the Final EIR. In some cases these responses result in minor clarifications, additional information, and minor changes to the text of the Final EIR. These changes include additional analysis of wastewater impacts on groundwater wells, revision of mitigation measures for reducing impacts to groundwater water quality and wells, clarification of water quality mitigation measures, clarification of mitigation measures controlling pipe construction beneath stream channels, clarification of how the proposed Wastewater Management Program would be developed and operated, clarification of the status of cultural resources in the project area, clarification of aesthetic mitigation measures, clarification of Caltrans' involvement in mitigation measures within the State highway right-of-way, and clarification of the analyses of project alternatives to include the additional analysis of groundwater effects. None of these changes to the EIR are substantial enough to trigger CEQA requirements for recirculation of the document for additional public review pursuant to CEQA Guidelines Section 15088.5 and do not prevent the certification of the EIR as adequate and complete in compliance with CEQA.

No comments were received on the Final EIR within the 10-day public review period, so no Amendment to the Final EIR is necessary for this purpose.

ANALYSIS

The proposed project with the mitigations identified in the EIR represents the environmentally superior alternative. Approval of the project would advance an important public policy objective of protecting and improving the water quality in Tomales Bay while offering cost-effective and improved sewage disposal options to owners of existing developed properties along the bay. A copy of the project summary that was provided to your Board under separate cover for your April 10, 2007 meeting has been included as Attachment 4. The key policy considerations that your Board would need to make in considering the merits of the project include: (1) the potential exposure of the County to liability associated with constructing and maintaining the wastewater facilities; (2) project financing; and (3) the appropriateness of expanding the role of the Environmental Health Services Division to manage the wastewater facilities.

1. Liability

Responsibility for maintenance and potential liability associated with the portion of the system that is on private property will fall on the private landowners. However, as the governing body for the on-site wastewater disposal zone, the County will assume some risk and liability in connection with the operation and maintenance of the common system which is comprised of the collection piping and the community leachfield. Coverage for the common facilities is available from the County's umbrella insurance. The extent of liability will be limited by the County's pollution insurance coverage which has a deductible of \$100,000. Over time, it is expected that the on-site wastewater disposal zone may be able to acquire its own insurance coverage, thereby reducing the risk to the County. Staff recommends that your Board find that the extent of liability associated with the County's assumption of the maintenance responsibilities for the system to be acceptable in light of the significant public and environmental benefits that are provided through the project.

2. Financing

The projected cost for the project is \$1.7 million. To date, funding has been secured from a combination of state Proposition 13 funds and the Federal Environmental Protection Agency grant totaling \$1.1 million, leaving a gap of approximately \$600,000. Property owners would be required to pay their fair share of the capital costs and staff is pursuing two options for long-term financing: one is a low-interest loan fund through a state sponsored program (I-Bank). Current interest rates offered through I-Bank range from 2.7 to 3% with loan origination costs of \$10,000. I-Bank staff has advised that the project application has passed the preliminary qualification stages and Marin County has been invited to submit a full application. The timing of the I-Bank loan process appears to work well with the projected balloting and construction timeline. In the event financing from I-Bank is found to be infeasible, the alternative means of closing the financing gap would be the issuance of revenue bonds. Interest rates would range from 5 to 6% depending on the tax-exempt status of the bonds and the costs of the bond issuance would be approximately \$68,000. Staff has consulted with a financial advisor and is fully prepared to execute this option should it prove necessary.

3. Role of Environmental Health Services.

The Environmental Health Services Division (EHS) will take on additional management responsibilities that would represent a departure from its traditional regulatory role. This would include management of the project construction and the on-site wastewater disposal zone. This role will continue once the community wastewater system is in operation. Existing staff resources intended to further program innovation and implementation could be diverted to ongoing management support to the zone. The staffing need for ongoing management of the system is estimated to be 0.3 FTE. Devoting this staff time to the zone would not result in additional net County costs but would correspondingly slow the pace of program improvement and innovation within the EHS Division.

CONCLUSION

The project has undergone rigorous preparation and processing in full compliance with CEQA, State EIR Guidelines, and County Environmental Review Procedures. Substantial opportunity for public participation in the EIR process and review and comment on the EIR documents has been provided which meets and exceeds the requirements of CEQA and County Environmental Review Procedures. The East Shore Project Final EIR is now adequate and complete to be acceptable for certification as the environmental review for the project. The Final EIR provides adequate information and analysis to make an informed decision on the environmental effects and take action on the project, project alternatives or combination of alternatives addressed in the Final EIR. Approval of the East Shore Wastewater Improvement Project would advance important public policy objectives for the County by protecting the health and safety of residents and businesses in the Marshall area and improving the environmental quality of Tomales Bay. The project would also allow the County to attain compliance with the Regional Water Quality Board's Total Maximum Daily Load Program for pathogens in Tomales Bay.

NEXT STEPS

In approving the project, your Board would authorize the Environmental Health Services Division staff to obtain all necessary permits and authorizations in order to construct the project, including waste discharge permits from the California Regional Water Quality Control Board, land use permits from the Planning Division and the California Coastal Commission, and an Encroachment Permit from the California Department of Transportation.

In addition, staff plans to schedule the following items for your Board's consideration in the near future.

- On May 1, 2007, your Board will be requested to approve the preliminary engineer's report and to authorize staff to prepare a mail ballot for creation of the assessment district.
- On May 1, 2007, your Board will be requested to review and approve the bid documents for construction of the wastewater system.
- In mid to late June 2007, your Board will conduct a hearing to tabulate the results of the election for the assessment district.
- Upon completion of the property negotiations, staff will bring forth the appropriate documents for purchase of the 5-acre leachfield parcel on the Barinaga Ranch for your Board's review and approval.

Respectfully submitted,

Alex Hinds
Director

Philip D. Smith
Deputy Director, EHS

Tim Haddad
Environmental Coordinator

Attachments: 1. Resolution Certifying the East Shore Wastewater Improvement Project Final Environmental Impact Report
 2. Resolution approving the East Shore Wastewater Improvement Project
 3. Project Summary from Report to the Board of Supervisors dated April 10, 2007

(Note: The Final EIR was previously provided under separate cover. Additional copies are available on request.)

MARIN COUNTY BOARD OF SUPERVISORS

RESOLUTION NO. _____

A RESOLUTION CERTIFYING THE
EAST SHORE WASTEWATER IMPROVEMENT PROJECT
FINAL ENVIRONMENTAL IMPACT REPORT

- I. WHEREAS, in April 2006, the Environmental Health Services Division of the Marin County Community Development Agency, a public project sponsor in a public/private partnership, completed a development design and project applications proposing to implement sanitary wastewater improvements for existing developed properties on bayfront lands and adjacent coastal hillsides located along the east shore of Tomales Bay. The project area is centered about the community of Marshall, extending from the vicinity of Nick's Cove in the north to approximately 1.0 mile south of the Marconi Conference Center. The project vicinity includes a total of approximately 100 developed residential and commercial properties located in several neighborhoods (Assessor's Parcel Numbers beginning at 104-150-01 and ending at 106-302-04). The project also includes portions of State Route #1 and portions of property known as the Barinaga Ranch (APN 106-210-73) located just south of the Marshall Post Office.
- II. WHEREAS, the proposed project has two primary elements: (1) construction of a community wastewater system to replace existing individual septic systems for up to 38 currently developed properties in the community of Marshall; and (2) formation of an onsite wastewater disposal zone to provide ongoing inspection, maintenance and monitoring oversight for the proposed Marshall community system as well as for the remaining onsite wastewater systems serving other existing developed properties in the project area. The proposed community wastewater system for Marshall will provide for the abandonment of existing septic systems, most of which are located immediately adjacent to Tomales Bay. The proposed wastewater facilities will consist of a septic tank effluent pump (STEP) collection system, approximately 5,000 lineal feet of effluent pipeline (force main) along State Route #1 right-of-way, and a community pressure-distribution leachfield system located on an approximate 5-acre site to be acquired from the Barinaga Ranch.
- III. WHEREAS, the East Shore Wastewater Improvement Project and Master Plan Waiver, Coastal Permit, and Use Permit applications represent a project subject to the California Environmental Quality Act (CEQA Public Resources Code Sections 21000-211178.1).
- IV. WHEREAS, the project is a public project being undertaken by the County. The Marin County Environmental Coordinator determined that a full scope Environmental Impact Report (EIR) was required for the proposed project to comply with CEQA. In conformance with CEQA Guidelines Section 15060 (d)), an Initial Study was not prepared. The County selected Leonard Charles Associates, an environmental consultant Firm to prepare the project EIR. A Notice of Preparation (NOP) for the project EIR was circulated in January 2006, to public agencies and all interested parties for a 30-day review and comment period on the scope of the EIR ending February 10, 2006. A public scoping session was conducted at an evening meeting in the community on February 16, 2006, to further identify environmental issues and concerns of the public for evaluation in the EIR.

- V. WHEREAS, the Draft EIR and a Notice of Completion (NOC), and notice of public hearing on the Draft EIR were distributed on November 27, 2006, to members of the Planning Commission, Board of Supervisors, State Clearinghouse, state and local agencies and special districts, surrounding property owners, and other interested groups and individuals. The NOC and notice of public hearing was published in a newspaper of general circulation to begin a 45-day public review and comment period on the adequacy of the Draft EIR. The public review and comment period ended on January 12, 2007.
- VI. WHEREAS, on December 12, 2006, the Marin County Board of Supervisors conducted a public hearing to receive testimony on the adequacy of the Draft EIR. Oral and written comments were presented at the hearing. Following the close of the public hearing, the Commission directed that a Final EIR Response to Comments be prepared after the close of the comment period on the Draft EIR.
- VII. WHEREAS, on January 12, 2007, the public review and comment period on the Draft EIR was closed, and written comments were received on the Draft EIR until 4:00 p.m. on that date.
- VIII. WHEREAS, on March 16, 2007, the Final EIR, was completed and contains annotated revisions to the Draft EIR and a written rResponse to all of the oral and written cComments received at the hearing on the Draft EIR and prior to the close of the public review period on the Draft EIR. ~~and~~ ~~a~~ A notice of distribution of the Final EIR for review and notice of a public meeting of the Board of Supervisors to consider certification of the Final EIR were distributed to members of the Planning Commission, Board of Supervisors, State Clearinghouse, federal, state and local agencies and special districts, EIR commentors, surrounding property owners and other interested groups and individuals. Pursuant to County EIR Guidelines, the Notice of distribution of the Final EIR for review and notice of the public meeting of the Board of Supervisors to consider certification of the Final EIR was published in a newspaper of general circulation to begin a 10-day public review and comment period on the Final EIR, which concluded on March 26, 2007.
- IX. WHEREAS, on March 26, 2007, the review and comment period on the Final EIR Response to Comments was closed, and no written comments were received on the Final EIR.
- X. WHEREAS, the Marin County Board of Supervisors has reviewed and considered the information in the Draft EIR, Final EIR, Final EIR Appendices, EIR administrative record and Final EIR Staff Report recommending certification of the Final EIR, for adequacy, completeness and compliance with CEQA, State CEQA Guidelines, and County Environmental Review Procedures.

NOW, THEREFORE, BE IT RESOLVED, that the Marin County Board of Supervisors makes the following findings:

- 1. Notice of the Board of Supervisors hearing on the Draft EIR and meeting to certify the Final EIR was given as required by law and the actions were conducted pursuant to State CEQA Guideline Sections 15088, 15088.5, 15089, 15090.
- 2. All individuals, groups and agencies desiring to comment were given adequate opportunity to submit oral and written comments on the Draft EIR and to submit written comments on the adequacy of the Final EIR for certification. These opportunities for comment meet or exceed the requirements of CEQA and the County Environmental Review procedures.

3. The East Shore Wastewater Improvement Project Final Environmental Impact Report consists of the Final EIR, Response to Comments and Appendices (including a draft mitigation monitoring program).
4. All comments submitted during the public review and comment period on the Draft EIR, the public hearing on the adequacy of the Draft EIR conducted by the Board of Supervisors, and the public review and comment period on the Final EIR were responded to adequately.
5. The Board of Supervisors was presented with all of the information in the administrative record, testimony, and EIR documents for the project Final EIR, and the Board has reviewed and considered this information and the Final EIR.
6. The Final EIR has been completed in compliance with the intent and requirements of CEQA and the State CEQA Guidelines, and the County EIR process, and reflects the independent judgment of the County of Marin. The Board of Supervisors has considered the information contained in the Final EIR prior to making recommendation to the Board of Supervisors regarding the certification of the Final EIR.

NOW, THEN LET IT BE FURTHER RESOLVED that the Marin County Board of Supervisors certifies the Final Environmental Impact Report for the East Shore Wastewater Improvement Project as adequate and complete in compliance with CEQA, the State CEQA Guidelines and the County Environmental Review Procedures, and is adequate and complete for consideration in making a decision on the merits of the project.

PASSED AND ADOPTED at the regular meeting of the Board of Supervisors of the County of Marin, State of California, on the 17th day of April 2007, by the following vote:

AYES:

NOES:

ABSENT:

PRESIDENT, BOARD OF SUPERVISORS

Attest:

CLERK

MARIN COUNTY BOARD OF SUPERVISORS

RESOLUTION NO. _____

A RESOLUTION APPROVING
THE EAST SHORE WASTEWATER IMPROVEMENT PROJECT

- I. WHEREAS, in April 2006, the Environmental Health Services Division of the Marin County Community Development Agency, a public project sponsor in a public/private partnership, completed a development design and project applications proposing to implement sanitary wastewater improvements for existing developed properties on bayfront lands and adjacent coastal hillsides located along the east shore of Tomales Bay. The project area is centered about the community of Marshall, extending from the vicinity of Nick's Cove in the north to approximately 1.0 mile south of the Marconi Conference Center. The project vicinity includes a total of approximately 100 developed residential and commercial properties located in several neighborhoods (Assessor's Parcel Numbers beginning at 104-150-01 and ending at 106-302-04). The project also includes portions of State Route #1 and portions of property known as the Barinaga Ranch (APN 106-210-73) located just south of the Marshall Post Office.
- II. WHEREAS, the proposed project has two primary elements: (1) construction of a community wastewater system to replace existing individual septic systems for up to 38 currently developed properties in the community of Marshall; and (2) formation of an onsite wastewater disposal zone to provide ongoing inspection, maintenance and monitoring oversight for the proposed Marshall community system as well as for the remaining onsite wastewater systems serving other existing developed properties in the project area. The proposed community wastewater system for Marshall will provide for the abandonment of existing septic systems, most of which are located immediately adjacent to Tomales Bay. The proposed wastewater facilities will consist of a septic tank effluent pump (STEP) collection system, approximately 5,000 lineal feet of effluent pipeline (force main) along State Route #1 right-of-way, and a community pressure-distribution leachfield system located on an approximate 5-acre site to be acquired from the Barinaga Ranch.
- III. WHEREAS, the East Shore Wastewater Improvement Project and Master Plan Waiver, Coastal Permit, and Use Permit applications represent a project subject to the California Environmental Quality Act (CEQA Public Resources Code Sections 21000-21178.1).
- IV. WHERE an Environmental Impact Report ("EIR") was prepared for the East Shore Wastewater Improvement Project by Leonard Charles, environmental consultant to the Marin County Community Development Agency – Planning Division, pursuant to requirements of the California Environmental Quality Act ("CEQA," Public Resource Code Sections 21000-21177), State CEQA Guidelines, and County Environmental Impact Review procedures.
- V. WHEREAS, the Marin County Board of Supervisors has reviewed and considered the information ~~provided to them~~ in the Draft EIR, Final EIR, Final EIR Appendices, EIR administrative record and Final EIR Staff Report recommending certification of the Final EIR, for adequacy, completeness and compliance with CEQA, the State CEQA Guidelines, and the County Environmental Review Procedures. The Marin County Board of Supervisors has certified the Final EIR as adequate and

complete in compliance with CEQA, the State CEQA Guidelines, and the County Environmental Review Procedures.

VI. WHEREAS, the Marin County Board of Supervisors conducted a duly-noticed public hearing on April 17, 2007 to consider the merits of the proposal project.

VII. WHEREAS, the Marin County Board of Supervisors finds that the proposed project with the mitigations identified in the EIR represents the environmentally superior alternative. Approval of the project would advance an important public policy objective of protecting and improving the water quality in Tomales Bay while offering cost-effective and improved sewage disposal options to owners of existing developed properties along the bay.

NOW, THEREFORE, BE IT RESOLVED, that the Marin County Board of Supervisors hereby approves the East Shore Wastewater Improvement Project subject to incorporation of all of the mitigations identified in the Final EIR into the project and all subsequent plans for development and construction of the project.

PASSED AND ADOPTED at the regular meeting of the Board of Supervisors of the County of Marin, State of California, on the 17th day of April 2007, by the following vote:

AYES:

NOES:

ABSENT:

PRESIDENT, BOARD OF SUPERVISORS

Attest:

CLERK