



Board Report

File #: 18-716, Version: 1

- a) Receive a project report on the Carmel River Lagoon Project; and
- b) Provide recommendation to the Board of Supervisors regarding management efforts in the Carmel Lagoon.

RECOMMENDATION:

It is recommended that the Capital Improvement Committee:

- a) Receive a project report on the Carmel River Lagoon Project; and
- b) Provide recommendation to the Board of Supervisors regarding management efforts in the Carmel Lagoon.

SUMMARY:

The County entered a Memorandum of Understanding (MOU) with US Army Corps of Engineers (USACE) and the National Marine Fisheries Service (NMFS, aka NOAA Fisheries) in 2013. This MOU is a self-imposed mandate to enable mutual planning for a long term comprehensive strategy to allow the Carmel River watershed to operate naturally without the need for mechanical flood protection actions and allow for implementation of an interim sandbar management plan while County applies for permits from the regulatory agencies and studies solutions. If the County does not manage the sandbar, homes and public infrastructure may be at risk of flooding. A Feasibility Report identified, and the Board of Supervisors selected for purposes of environmental review, preferred alternatives that includes three project components: 1) Ecosystem Protective Barrier (EPB); 2) Scenic Road Protection Structure (SRPS); and 3) Interim Sandbar Management Plan (ISMP). A Draft EIR was prepared and circulated. A significant number of comments were received on the DEIR. Additionally, State Parks has continued to oppose use of State Parks land for the project.

Due to funding constraints and the significant remaining cost, staff requests a recommendation from the CIC Committee and will be seeking direction from the full Board as to how to proceed with management in the Carmel Lagoon. Some of the possible alternatives include, but are not limited to, the following:

- 1) Continue the environmental document process for the long-term project, conduct the technical studies for the full-height SRPS in the County right of way, and complete the environmental review process to bring the EIR to the Board for certification of EIR and project selection and adoption;
- 2) Continue the environmental document process for the long-term project, conduct the full-height SRPS technical analysis, and explore possible alternatives to the property-line EPB that may reduce impacts identified in the EIR (e.g. discontinuous property line EPB and annually sandbag in the public road ROW to establish a continuous EPB during the rainy season)
- 3) Discontinue the long-term project (SRPS/EPB) and sandbar management, except for implementing the sand bag flood protection barrier with approval of property owners.
- 4) Discontinue the long-term project (SRPS/EPB) and sandbar management.
- 5) Discontinue the long-term project (SRPS/EPB) and pursue options to support elevation of the private homes out of the floodplain
- 6) Other alternatives.

Options 1 and 2 would require a continued financial commitment by the County; no other agency has offered financial assistance for this regional project with regional ecological and flood control benefits. County Service Area 1 (CSA1) Advisory Committee and Carmel Area Wastewater District (CAWD) have expressed willingness to consider providing some limited funding toward the project, SPRS and sandbar management

respectively. County has expended almost \$800,000 to date on technical/environmental work. Staff estimates completing the EIR would cost an additional approximately \$520,000. Another approximately \$690,000 is estimated to be needed to complete final design and permitting, before ever getting to actual construction (estimated \$15.5 million). In addition, County expends \$200,000-500,000 per year for sandbar management.

DISCUSSION:

The Carmel River Lagoon Project (“Project”) is located within and adjacent to the Carmel River State Beach and Lagoon between State Route (SR) 1 and the Pacific Ocean in the unincorporated Carmel area of Monterey County, California. The Project is a multi-objective, multi-year, multi-organizational effort to improve habitat for threatened and endangered species in the lower Carmel River and Lagoon, improve natural floodplain function, and protect public infrastructure, while maintaining or improving flood risk to existing developed areas.

Historically the sandbar at Carmel River State Beach was managed to cause the Carmel Lagoon to breach, providing flood protection to the lands adjacent to and surrounding the Carmel Lagoon. Starting in the late 1800’s, sandbar breaching was done by the landowners to facilitate farming operations, which also allowed development to occur within the floodplain. From mid-1990’s to 2010, Monterey County Water Resources Agency (MCWRA), as the County Flood Control Authority, was the lead agency in these flood control efforts. County Department of Public Works (DPW), which became part of the Resource Management Agency (RMA) in 2005, supported MCWRA because DPW/RMA had the equipment. Work was done through emergency actions, and no permits were obtained.

In 2010, the Steelhead Association served the County with a 60-day Notice of Intent to file lawsuit. MCWRA filed an application with US Army Corp of Engineers for on-going breaching activity. National Marine Fisheries informally informed MCWRA that a Jeopardy Opinion had been drafted for that request. If a Jeopardy Opinion were issued, it would require mitigation consisting of long-term solution that avoids or reduces breaching through the planning stages. Beginning in 2011, the County through RMA assumed the lead to work with regulatory agencies and apply for permits to manage the sandbar by lowering a portion of the sandbar to allow the lagoon to breach on its own, but at an elevation that avoids flooding the lagoon-adjacent neighborhoods.

In 2013, the County entered into a Memorandum of Understanding (MOU) with US Army Corps of Engineers (USACE) and the National Marine Fisheries Service (NMFS, aka NOAA Fisheries), that allows processing of permits for sandbar management provided County applies for permits and studies a long-term solution that avoids or reduces breaching. A Feasibility Report identified, and the Board of Supervisors selected for purposes of environmental review three project components: 1) Ecosystem Protective Barrier (EPB); 2) Scenic Road Protection Structure (SRPS); and 3) Interim Sandbar Management Plan (ISMP). A Draft EIR was released for a 60-day public review period beginning December 2, 2016 and ending on January 31, 2017. In addition to the EPB/SRPS preferred alternative, the EIR also analyses alternatives from the Feasibility Study as well as other alternatives identified through various sources. The County received a significant number of comments, and additional technical studies related to the SRPS component have been identified as a result of the public comment. Since assuming lead in 2013, Monterey County, at its sole expense, has paid for about \$2 million for technical/environmental work, design, and permitting, plus sandbar management activities. Staff estimates it would require about \$1.3 million to complete the permit process (EIR, design, permits).

RMA has provided periodic updates to the Capital Improvement Committee on this project. This year, RMA secured all necessary permits and conducted sandbar management twice in January 2018, to avoid flooding of the lagoon-adjacent properties. There continues to be significant controversy over the proposed long-term

project, that continues and extends the County's efforts and adds more analysis that results in added costs. Most of the controversy surrounds the EPB. In addition, State Parks has stated they oppose any use of State Park lands.

A new EPB possible alternative has developed through this process. This possible alternative includes placing an EPB along property lines, rather than in the Lagoon, with openings where streets dead end into the Lagoon. This would address State Parks opposition to use of State Park lands for the project and regulatory barriers for management in wetland, but would require on-going sandbagging at street ends to provide the current level of flood protection. NMFS generally opposes on-going sandbar management,; however, they have expressed an openness to the concept of SRPS with ongoing sandbar management, with management informed to provide maximum benefit to endangered species. The SRPS protects Scenic Road when the river breaches in a northerly direction, which is preferred by NFMS while protecting public infrastructure.

An alternative for the SRPS would be to locate it at mid-slope, but that would not address State Parks opposition to use of State lands. State Parks representatives expressed they would consider the possibility of a like-for-like, contiguous land swap that could accommodate the SRPS project at mid-slope. Landowner representatives are in the process of making a land swap proposal for State Parks consideration. Furthermore, a land swap would involve several regulatory hurdles that must be considered before such an option could be chosen. .

If no other viable option exists, completely avoiding State lands can be accommodated with a full height wall in the right of way, which would create an approximately 40-foot wall along Scenic Road with the need for safety fencing along the top. Any SRPS alternative faces regulatory hurdles that need to be addressed with Coastal Commission for sand replenishment and coastal access (physical and visual).

See Attachment 1 for additional detail.

OTHER AGENCY INVOLVEMENT:

The County has entered into an MOU with the United States Army Corps of Engineers (USACE) in consultation with the National Marine Fisheries Service (NMFS, aka NOAA Fisheries). The RMA is also working with the regulatory agencies including the Regional Water Quality Control Board (RWQCB), California Coastal Commission (CCC), and the California Department of Fish and Wildlife (CDFW). The California Department of Parks and Recreation (State Parks) is the underlying landowner of the sandbar/beach areas and provides biological monitoring of protected bird species (snowy plover) for the project. The Monterey Peninsula Water Management District (MPWMD) cooperates to provide lagoon and river condition monitoring and is contracted by the County to provide biological monitoring of protected fish species (steelhead) for sandbar management activities.

Key stakeholders that staff has engaged include California Department of Parks and Recreation (State Parks), Carmel Area Wastewater District (CAWD), County Service Area 1 Advisory Committee (CSA1), and individual property owners/residents in the Lagoon vicinity. In preparation for this project update to the Board of Supervisors, Staff held a stakeholders' public meeting on June 8, 2018 with representatives from State Parks, the Office of State Senator Bill Monning, the Office of Assemblymember Mark Stone, the Office of County Supervisor Mary Adams, the State Lands Commission, NOAA, USACE, and other key landowner representatives and regulatory agencies, in order to discuss the current status of the project and options moving forward.

FINANCING:

The County has spent a total of \$779,099 in FY13 through FY 17 toward planning and analyzing the long-term project. The total estimated cost to complete the project is \$17,445,470, with the following remaining activities and associated costs:

Technical Studies = \$360,470
Recirculate and Final EIR = \$160,000
Design = \$500,000
Permitting = \$190,000
Construction = \$15,500,000
Total Estimated Remaining Cost = \$16,710,470

Should the Board of Supervisors direct staff to pursue Option 1 and funding be identified, the County could process an amendment to its consultant's contract to continue the environmental analysis for the project by providing additional technical studies regarding the Scenic Road Protection Structure. The technical study activities are broken out into three stages and generally include the following:

- *Stage 1:* Establishment of a Technical Advisory Committee (TAC), evaluation of natural stream alignment and breach location (draft), evaluation impacts of wall options on the beach (draft), preliminary 60% design (draft)
- *Stage 2:* Ongoing TAC activities, sediment transport analysis
- *Stage 3:* Complete TAC activities, evaluation of natural stream alignment and breach location (final), evaluation impacts of wall options on the beach (final), preliminary 60% design (final)

Anticipated cost to complete the additional technical studies in FY 19 is estimated to be:

Stage 1 = \$ 99,780
Stage 2 = \$188,310
Stage 3 = \$ 72,380
TOTAL = \$360,470

Staff submitted an Augmentation Request for \$360,470 for FY19; this augmentation was not supported and is not part of the adopted budget for FY19. If Stages 1, 2 and 3 were to be completed concurrently, the technical studies could be completed within approximately 9 months; if they are completed sequentially, the timeline expands out to approximately 18 months and would require less funding to be identified for FY 19.

Once the additional technical studies are complete, the DEIR may need to be updated and recirculated. Once the technical studies are near completion, staff would then determine whether revision and recirculation of the DEIR is advisable and if yes, work with the consultant to prepare a scope of work and budget for DEIR recirculation, and update cost estimates for Final EIR and project permitting. Additional funding would be needed for DEIR recirculation, Final EIR, and project permitting. Pending Board direction, RMA staff will continue to work with the County's Strategic Grant Program to identify and apply funds necessary to complete the planning, construction and post construction monitoring phases of this project.

Once the Final EIR were complete and a project were selected, staff would complete a cost estimate, timeline and funding strategy to complete the design, construction and post-construction monitoring of the project. Should the Board direct staff to pursue a different alternative, then staff will develop a revised project scope and cost estimates.

Sandbar management has cost the County on average \$200,000 per year, including permits, staff costs, contract services and equipment. Some years the County has not managed, and in other years it has costs as much as a

\$500,000 to conduct sandbar management activities. Expenditures for FY2017-18 sandbar management totaled \$77,655.23, not including RMA management staff time which is part of the RMA baseline budget for General Fund . The RMA's Road Fund also funded submittal of permits for 2018-2019 sandbar management in FY 2017-2018. No funding was allocated for sandbar management activities in the Adopted Budget FY 2018-19.

Prepared by: Melanie Beretti, Special Programs Manager (X5285)

Approved by: Carl Holm, AICP, Director of Resource Management Agency

ATTACHMENTS

Attachment 1 - Carmel Lagoon EPB/SRPS Report (REF120051), July 2018

Attachment 2 - Carmel Lagoon Update Presentation