

AGENCY COORDINATION IN THE GABILAN WATERSHED

FROM THE MOUNTAINS TO THE SEA

Designing and Permitting Multi-Benefit Projects: Multiple Agencies and Stakeholders Diverse Interests, Directives and Priorities

August 2014

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Designing and Permitting Multi-Benefit Projects: Multiple Agencies and Stakeholders Diverse Interests, Directives and Priorities

Prepared for:

Water Resource Project Coordination Committee for the Greater Monterey County Integrated Regional Water Management Plan

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August 2014 BACKGROUND

One of the major challenges to project implementation identified during the January 2013 Water Resource Project Coordination (WRPC) stakeholder workshop was permitting and regulatory compliance. Hurdles to project implementation brought about by lack of interagency coordination and difficult and confusing regulation were voiced time and time again at the January 2013 meeting. Examples included confusion over which agency had control over waterways, coordination with and between permitting agencies, the practical and legal effects of differing biological opinions, and a general confusion over which agency managed what resources. The goal of this section of the Blueprint was to consider the regulatory constraints and challenges that projects in the Gabilan Watershed might encounter, and identify possible options for coordinating agency review and consultation.

The work effort included two primary components: data collection and strategy development.

Data Collection

The data collection component focused on:

- 1. Using a list of agencies provided by WRPC Committee members and other stakeholders recommended by the committee, perform a basic analysis of plans and policies, mandates, and regulations that affect Moro Cojo/Tembladero/Elkhorn Sloughs, TMDL listings, flood management, water treatment (supply and discharge) and other issues of concern in the watershed. Existing plans were evaluated to identify relevant policies and which departments within larger bureaucracies needed to be contacted.
- 2. Conducting meetings, phone calls and/or conference calls with agency staff to get to buy-in as well as methods for streamlining both coordination and permitting.
- 3. Creating a matrix (agency mandates, regulations and policies) that presents the results of the data collection and preparing a short analysis of conclusions and recommendations.
- 4. Performing a gap analysis with the assistance of contacted agencies with a particular emphasis on identifying contradictory strategies, mandates and/or policies. Identifying types of projects that trigger the various agency involvements and working with contacted agencies to identify possible solutions to overlapping jurisdictions, contradictory mandates or policies and other issues identified by the team and the WRPC Committee.
- 5. Refining and finalizing the matrix and preparing a short analysis of conclusions and recommendations.

Strategy Development

The strategy development component focused on:

- 1. Evaluating options for protocol/processes/options to support collaboration for assessing and/or developing projects or interacting with project sponsors.
- 2. Consideration of opportunities to involve other regional stakeholders, beyond the agencies in the matrix.

3. Assistance in identifying comprehensive, multi-objective, multi-stakeholder projects to serve as model pilot projects to support more detailed agency discussions concerning coordination and permitting.



DATA COLLECTION

The consulting team used the following strategies to assess possible project integration options and the corresponding permitting/regulatory challenges:

- Internet research and phone interviews with agencies regarding permitting requirements and documents
- Meetings with key agency staff to discuss permitting processes and requirements
- Preparation of a permitting requirement matrix summarizing primary permitting and regulatory oversight
- Evaluation of existing projects within the watershed to identify options for integration and consolidation
- Meetings with project proponents to discuss specific options for integrated projects
- Identification of permitting constraints or coordination challenges (based on the level of specificity of the project, i.e., the readiness to proceed)
- Identification of potential funding options for the identified projects

ENTITIES CONTACTED

The following agencies and organizations were contacted by the project team to learn more about the regulatory and permitting authorities in the region:

Big Sur Land Trust City of Salinas Castroville Community Services District CSUMB Watershed Institute CSUMB Return of the Natives Monterey County No Salinas Valley Mosquito Abatement Dist Monterey Bay National Marine Sanctuary Moss Landing Harbor District State Water Resources Control Board/RWQCB California Coastal Commission California Coastal Conservancy California Dept of Fish & Wildlife California Dept of Public Health Monterey Bay Citizen Watershed Monitoring Network California Native Plant Society NOAA Fisheries USDA Resource Conservation Service/local RCD US Fish & Wildlife Service US Army Corps of Engineers Table 2 (attached) provides detailed contact information for all consulted agencies and organizations.

SUMMARY MATRIX

Early in the interview process it became clear that many permitting agencies were unable to define actual permitting requirements without at least a conceptual project description at hand. Agencies were contacted and asked to distinguish permitting requirements for types of projects, but could not respond to this request because permitting requirements are determined based on a variety of factors, including project location, resource(s) impacted by project construction and operation, project operational features, and jurisdiction; project type is generally not a factor in determining permit requirements. Though a project list was available, project locations were largely undefined and the range of over 30 possible projects, most candidates for substantial alteration and integration in the future, precluded any meaningful feedback. Due to time and staff constraints, the permitting technicians contacted could not provide information on the number of scenarios provided other than to indicate whether permitting alignment is generally supported within their agency (noted in Table 3, attached) and to briefly review the list of projects and provide general support of project ideas. Projects with beneficial water quality and supply impacts were generally well supported by permitting staff. Most permitting technicians recommended developing a specific project description prior to consultation and referred the consultants to general permitting requirements within their agency.

Although permitting requirements change infrequently, staff turnover can result in subtle but significant changes in interpretation or in the review process, while agency budget changes can dictate new procedures and processes, as well as staff availability. The specific attributes of a project can result in multiple departments or staffers being involved in any given permitting action.

Further, addressing a permit form requirement does not always result in a project being processed without further conversations and refinement – as not all project components can be assessed simply on the basis of information provided in response to a standardized form. The mandate to coordinate with other agencies, while common and clearly sincere, is not always supported by adequate budgeting or staffing allocations to support the detailed level of interaction that is required when considering a project that is designed to be a multi-benefit, multi-objective and multi-stakeholder project.

In short, the consensus was that presenting a matrix of applicable permits would result in the need for frequent and careful update and would not embody the nuanced complexity of permitting processes. As a result, the agencies suggested an alternative approach – develop a matrix that provides links to websites on which more specific information is provided. Hence, the decision was made to create a contact matrix with a summary statement for each agency. Table 3, attached, includes brief comments on agency jurisdiction, regulations, types of permits needed for different projects/project impacts, a list of websites with additional detailed permitting information, and project alignment opportunities, if applicable. Sections below further expand on the likely steps required to achieve a truly coordinated permitting system in the region.

GAP ANALYSIS

The gap analysis proved to be a complex undertaking with a relatively simple outcome: after many interviews and review of a wide variety of applicable plan and policy documents it became clear early in the process that integrating the results of a comprehensive analysis would far exceed the available budget, and further that the agencies contacted did not feel that an exercise of that nature would result in concrete outcomes.

There are no natural resources in the area that are exempt or overlooked in the review process. Wetlands, riparian zones, endangered or threatened species, aesthetics/viewsheds, soil erosion and other similar issues or concerns are thoroughly covered in the planning and permitting requirements of local, state and federal agencies. Furthermore, many of the same resources are regulated by multiple agencies, and the exact location of resources often dictates the regulatory agencies involved.

- The installation of infrastructure is similarly well addressed. Storm water, water supply and treatment/distribution and sewage treatment facilities and associated infrastructure, are also well regulated and have overlapping jurisdictional considerations.
- The concern raised by the interviews and evaluation is not that a topic, issue or area is somehow missing from regulatory oversight. Nor is it that the various permitting processes are not clear, at least in their outline. Rather, the complexity of project evaluation on the part of multiple agencies does not lend itself to an informal collaborative process.
- There are local examples of processes that have been developed to expedite and coordinate project permitting, such as the Partners in Restoration program, which is active throughout the area but most particularly in adjacent Santa Cruz County.
- The gap identified as a result of considerable interviews and evaluation appears to be associated with creating a linkage between project design and the permitting process. Frequently a project will be developed based on the specific needs of a site or sponsor. That project is then refined in anticipation of probable permitting requirements. If project permitting involves multiple agencies (either as responsible or consulted entities), the dynamic involved in refining design prior to application magnifies.
- The local governments have developed processes that support early consultation, coordination
 among county and city departments, early coordination of design issues, and clearly understood
 processes for amending or revising projects in response to identified issues. However, there is no
 such process prior to application for simultaneous multi-agency review that would include state and
 federal agencies.
- To actually achieve permitting alignment would require policy-level decisions at the uppermanagement level of the affected agencies, and that is unlikely to occur without concerted effort dedicated to that outcome. Permitting technicians are generally not in a position to make decisions regarding permit alignment or streamlining.
- Finding ways for state and federal agencies to participate in project design problem-solving discussions would require agency commitment in the form of budget allocation for staff; at this date and in this constrained economy, it is unlikely that such a mandate would be created.
- A systematic effort to evaluate the significant number of planning documents, policies, and mandates with respect to inherent conflicts, divergence, and potential alignment is a significant work effort which would require substantial time investment on the part of the targeted agencies, which is further complicated by the lack of available funding and agency mandate.
- While agency staff are consistently supportive of multi-stakeholder/multi-benefit projects, the systems in which they function are not configured in such a way that the staff-level support can translate into an aligned permitting process. Agency staff are handicapped in their ability to participate in project-development activities by lack of budget, lack of staff time, and the internal permitting process and framework within their individual agency.

PROJECT FUNDING

Funding options for Integrated Regional Water Management (IRWM) related projects, based on research by the team, is shown in Table 1, Options for Project-specific Implementation Funding. Determination of funding options relies on a clear description of the intended and measurable project outcomes.

TABLE 1 - Options for Project-specific Implementation Funding
Capital Improvements Program Funding (Revenue Bonds, Certificates of Participation)
Property Tax Assessment (Assessed Valuation)
User Fees
State Funding
Proposition 84 Integrated Regional Water Management Grant Program Department of Water Resources – Local Groundwater Assistance Department of Public Health – Emergency and Urgent Water Protection State Water Resources Control Board – Storm Water Grant Program Local Levee Assistance Program Flood Protection Corridor Program Flood Control Subventions Program Urban Streams Restoration Program
Proposition 1E Stormwater Flood Management Program Early Implementation Program
Proposition 50 Department of Water Resources – Water Use Efficiency Grants Department of Water Resources – Contaminant Removal Department of Water Resources – UV and Ozone Disinfection
Other State Funding California Financing Coordinating Committee (CFCC) State Revolving Fund Safe Drinking Water SRF Infrastructure SRF Clean Water SRF State Water Resources Control Board – Federal 319 Program State Water Resources Control Board – Water Recycling Funding Program Department of Water Resources – New Local Water Supply Construction Loans Department of Housing and Community Development – Community Development Block Grant California Energy Commission (CEC) – Energy Financing Program
Federal Funding
 Environmental Protection Agency, Source Reduction Assistance Environmental Protection Agency, Wetlands Program Development Grants Environmental Protection Agency, Five Star Restoration Program Water Resources Development Act National Rural Water Association (NRWA) Revolving Loan Fund National Park Service (NPS), Rivers, Trails, and Conservation Assistance (RTCA) Program U.S. Department of Agriculture (USDA) – Rural Development, Water and Waste Disposal Program U.S. Bureau of Reclamation (USBR), WaterSMART, Grant Programs U.S. Fish and Wildlife Service (USFWS), North American Wetlands Conservation Act Grant

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STRATEGY DEVELOPMENT

COLLABORATIVE PROCESS FOR EVALUATING AND DEVELOPING PROJECTS AND ANTICIPATING PERMITTING REQUIREMENTS

The following points emerged from the interviews conducted across the region:

- All contacted agencies have indicated a willingness to collaborate and coordinate to enable important
 projects to be implemented; however, at a project-design/permitting level, the specifics of how
 various project components meet or are consistent with regulatory requirements can become
 extremely complex.
- There is no one-size-fits-all permitting strategy; every project will have to utilize a project-specific application strategy that can be informed by available permitting and regulatory information but will not necessarily be evaluated or conditioned based on those criteria. In other words, internal decision-making and determination of appropriate project mitigation and permit requirements vary from project to project (even within a single agency) and cannot be predicted prior to engaging in the permitting process.
- One significant challenge is extremely limited staff time, which leads to unavailability for early and frequent consultation, at the conceptual level in particular. In many agencies, the individual staff responsible for identifying project-specific requirements or mitigations frequently is not available for consultation until the project application has already been submitted.
- An increasing phenomenon due to lack of budget is agencies requiring project proponents to complete extensive baseline condition analysis or other forms of data collection, in order to determine potential project mitigations or meet unfunded agency mandates.
- At this point, the design and implementation of individual projects will not be significantly impacted by this analysis unless and until an integrated multi-agency permitting alignment strategy is developed. At this point in time, it appears more realistic for projects to be designed to achieve specific objectives rather than designed to facilitate possible permitting. Further, while pursuing implementation of an individual or integrated project may lend itself to an alignment effort, there is no guarantee that the outcomes of that alignment effort would in fact affect any other project(s).
- Absent funding to support project design and evaluation, including collection of baseline data, many projects will never get to the application stage; if they do, the requirements that result from the permitting process can effectively make the project infeasible. Conversations with a wide variety of agency staff made it clear that identifying possible project-specific options and mitigations early in the process doesn't preclude other issues from being identified later in the process. Further, the

process of attempting to design mitigation into a project can have the unanticipated impact of creating more permitting complexity for the project. So (and as noted above), no individual project appears to be able to pave the way for subsequent projects and there is no method currently available for predicting the timing, expense, logistics or applicable considerations for any given project in advance of permitting application.

- Cities and counties have developed integrated permitting strategies across their own departments
 which have streamlined many permitting processes; however these permits do not include
 coordination with other regulatory entities which have their own separate processes.
- The frustration experienced by both applicants and agency staff over the complexity of permit coordination is substantial.
- There is no central authority which can serve to coordinate or expedite permitting process and procedures.
- Productive coordination cannot be achieved without development of a framework that supports both attaining agency mandates and project proponents' desired project-level outcomes – across multiple agencies.

As a result of the research effort it is clear that, without a mandate from the higher level management within the various permitting agencies, as well as an allocation of budget and staffing resources, the prospect for a fully integrated permitting strategy within this complex region remains unlikely.

Perhaps the best example of a process which has shown promise of success and is currently being implemented is the Santa Cruz Partners in Restoration Program/Santa Cruz Countywide Permit Coordination Program, sponsored by the Santa Cruz Resource Conservation District. The group has sponsored and developed funding for a coherent and organized permit alignment process, involving multiple agencies. The typical projects served by this program encompass some of the types of projects that the Gabilan area would expect (e.g., steam bank protection, grade stabilization structures, habitat restoration, sediment basis), however the more infrastructure-intensive projects that characterize the project list for the Gabilan region represent a different project focus, and one which is not currently part of the Santa Cruz program. Regulatory agencies that have signed on to this "one-stop regulatory shopping" program for Santa Cruz County include: the County of Santa Cruz, California Coastal Commission, California Department of Fish and Game, Central Coast Regional Water Quality Control Board, U.S. Army Corps of Engineers, U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, and National Oceanic and Atmospheric Administration Fisheries. Development of the Program was funded primarily by the California Coastal Conservation Service (NRCS) and the Community Foundation of Santa Cruz County.

This program could definitely serve as a model for creating a formal alignment of agencies and regulatory programs within the Gabilan Watershed and should be considered from a funding perspective and with an implementation focus.

INVOLVEMENT OF ADDITIONAL STAKEHOLDERS

A wide variety of interviews with the preliminary list of contacts provided by the WRPC Committee resulted in the identification of few additional stakeholders to involve in the project development or permitting coordination dialogues. The IRWM program has had an extensive outreach effort. These contacts and stakeholders were, in turn, provided to the project team as they initiated their outreach. This contact list was extensive and proved to cover virtually all of the stakeholders in the region – regulatory and non-regulatory.

It appears that the most likely constituencies for additional outreach are within the agricultural community. While individual ranchers and farmers will likely be identified in the next work effort, at this point in time the agricultural community prefers to be contacted through their professional associations or their connections within the Resource Conservation Districts (RCDs). The next round of project development will likely use contacts developed via the rest of the Blueprint effort to reach a bit deeper into the agricultural community.



DEVELOPMENT OF MODEL INTEGRATED PROJECTS

As the final product of the WRPC process, the facilitators led an effort to integrate projects within the Gabilan Watershed. The project integration process proceeded in two phases:

1) review of all existing IRWM Plan projects located in the Gabilan Watershed to identify integration options (see Table 5 - 2012 WRPC Project List, Sorted by Program and Table 4 - 2012 WRPC Project List Integration Matrix), and

2) discussions with a wide variety of project proponents to identify possible partners and integrated project components.

REVIEW OF EXISTING PROJECTS

The review of existing projects resulted in "groupings" of projects, organized by integrative themes or "integratable" places, e.g., Moro Cojo or the City of Salinas (where diverse projects could all be implemented in the same place, addressing different objectives).

The outcome of this review process was the development of six preliminary integrated project "bundles" or "suites," containing components of 18 previous IRWM Plan projects. These options are undergoing continued refinement as stakeholders within the region will need to reach consensus as to the specific characteristics of the possible projects. The six potential project suites are as follows (project numbers correspond to those numbers in Table 5):

- Principal creek systems (Santa Rita, Natividad, Tembladero, Gabilan, Salinas River, Rec Ditch):
 - o Applicable projects: 2, 11, 15, 28, and 31
 - Possible narrative: These projects are general enough to be tailored to any of the six major waterways within the watershed. An integrated project might consist of reducing septic leakage in disadvantaged communities (2) along urban waterways to address one major source of water pollution. At the same time, combining that effort with projects to restore watersheds with native plants (11), constructed wetlands (15) and improvements to engineered flood-control channels (28) would address down-stream water quality. Finally, funding a research partnership with California State University Monterey Bay (CSUMB) to

study water quality best management practices (BMPs) (31) would provide longitudinal data on the health of the watershed.

- Moss Landing:
 - Applicable projects: 13, 16, and 17
 - Possible narrative: Monterey County Water Resources Agency (MCWRA) and Monterey County Public Works could integrate three physical infrastructure projects proposed for the Moss Landing Area, consisting of improvements to the Potrero Road Tide Gates (13), the guide rail at the sanitation district (16) and the SCADA project (17). Together, these projects promise to reduce flooding and accidental sewage releases.
- Elkhorn Slough:
 - o Applicable projects: 1, 14, and 27
 - Possible narrative: Combining these three projects in or adjacent to the Elkhorn Slough would yield a holistic approach to wetland health. A sustainable agriculture demonstration station (1) next to the slough would develop and disseminate knowledge about BMPs; restoring coastal dunes and wetlands in the slough (14) would improve habitat quality and ecosystem services; and mapping drainages within the slough would improve understanding of nutrient and sediment flows (27).
- Southwest Salinas:
 - Applicable projects: 22, 24 and 26
 - Possible narrative: The City of Salinas has proposed three similar, related infrastructure projects in the southwest part of the city, near Davis Road, which are ideal candidates for integration. They would consist of replacing a sewage pipeline (22), improving treatment facilities (24) and diverting urban run-off to detention ponds (26), which would reduce pollutant load entering the Salinas River.
- Boronda:
 - o Applicable projects: 2, 17 and 23
 - Possible narrative: The Boronda district of Salinas, currently on the city's outskirts, is a high growth sector of the city which may facilitate the addition of 50,000 residents in coming decades. The City has proposed to improve the sanitation district's guide rail system (23) and implement the SCADA program there (17). Combined with assistance for disadvantaged communities to address septic leakages, these projects present a holistic strategy to reduce water contamination from both point and non-point sources.
- Coastal zone:
 - Applicable projects: 3, 8, 14 and 18
 - Possible narrative: These projects are geographically specific to the coastal zone where the Gabilan watershed drains into Monterey Bay. If partnerships between the proposing organizations could be formed, the result might be a stronger alliance for the health of coastal ecosystems through projects such as planning for sea level rise (3), monitoring water quality with buoys (8), restoring dunes (14) and cleaning up beaches (18).

In addition, during the interview and contact process several jurisdictions indicated a willingness and desire to rethink their project options in light of the integrated perspective. These conversations are now ongoing through the region.

INTERVIEWS WITH INDIVIDUAL PROJECT PROPONENTS – INTEGRATED PROJECT DEVELOPMENT OPTIONS

Following this initial project review and aggregation exercise, members of the project team engaged in a series of targeted interviews to advance the integration discussion and begin the process of identifying and resolving project development challenges. A series of one-on-one meetings were held across the region to discuss possible projects with the various proponents and stakeholders with respect to integration options.

As a result of these meetings, a systematic process has been identified to begin development of integrated projects with multiple stakeholders. This process will continue via coordination with the WRPC Committee. The results of the process will be integrated into the IRWM Plan as consensus is reached as to specific project descriptions, measurable outcomes and confirmed partners. A key focus of the effort will also be addressing the needs of disadvantaged communities within the project area. Preliminary indications are that the City of Salinas, the City of Castroville, the Moro Cojo area and Tembladero Slough will be areas of most immediate focus in this effort.