



STAFF REPORT TO THE PLANNING COMMISSION
2007 MARIN COUNTYWIDE PLAN SUPPLEMENTAL EIR
WITH A FOCUS ON POTENTIAL CUMULATIVE IMPACTS TO SALMONIDS
IN THE SAN GERONIMO VALLEY

Item No: 4

Staff Coordination: Rachel Warner, Environmental Planning Manager
Tarisha Bal, Deputy County Counsel

Hearing Date: May 22, 2017

RECOMMENDATION: Conduct a public hearing on the Draft SEIR

APPEAL PERIOD: N/A

LAST DATE FOR ACTION: N/A

ACTION:

The Planning Commission is requested to conduct a public hearing on the Draft Supplement to the 2007 Countywide Plan Final Environmental Impact Report (Draft SEIR) with a Focus on Potential Cumulative Impacts to Salmonids in the San Geronimo Valley. The SEIR will be used by the Marin County Board of Supervisors in considering approval of the Proposed Project (*Marin CWP [2007]*) and certification of the *2007 Countywide Plan FEIR* with respect to the San Geronimo Valley.

No action other than conducting the public hearing to receive testimony on the adequacy of the Draft SEIR is proposed at this time. After the SEIR process has been completed, the Planning Commission will consider recommending certification of the Final SEIR to the *2007 Countywide Plan FEIR* as adequate and complete pursuant to the California Environmental Quality Act (CEQA) and the Marin County Environmental Impact Review Guidelines. A public notice will be published and interested parties notified at least 10 days prior to the Planning Commission's hearing on the Final SEIR.

PROJECT OVERVIEW AND BACKGROUND:

The Proposed Project is future land use and development specific to the San Geronimo Valley, consistent with the goals, policies, and programs of the *Marin CWP (2007)* that serve to avoid or minimize adverse impacts on biological and wetland resources in the County. The *2007 Countywide Plan FEIR* was certified by the Marin County Board of Supervisors in November

2007 and the *Marin CWP (2007)* was adopted. Following the County's certification of the Final EIR, the Salmon Protection and Watershed Network (SPAWN) filed a lawsuit challenging the adequacy of the EIR. SPAWN's challenge was limited to the application of the *Marin CWP (2007)* and EIR to the San Geronimo Valley. On appeal, SPAWN's challenge was further narrowed to two primary contentions: that the EIR failed to properly analyze the cumulative impacts on threatened salmonids of future development in the San Geronimo Valley watershed as contemplated by the *Marin CWP (2007)*, and that the EIR relied on inadequate mitigation measures to reduce the impacts of development to a less-than-significant level.

EIR Supplement Requirement

This Draft Supplemental EIR (Draft SEIR) has been prepared in accordance with the decision of the Court of Appeal of the State of California First Appellate District Division Three, which directed the County to set aside its approval of the *Marin CWP (2007)* and certification of the EIR with respect to San Geronimo Valley, pending the following:

- (1) analysis of potential cumulative impacts, and the range of potential consequences, on salmonids in San Geronimo Valley resulting from future buildout in the watershed in conformity with State California Environmental Quality Act (CEQA) Guidelines Section 15130 and the Court opinion, and
- (2) a description of mitigation measures relevant to salmonids in San Geronimo Valley in conformity with State CEQA Guidelines Section 15126.4 and the Court's opinion or a description of other findings in conformity with State CEQA Guidelines Section 15091.

As specified in the Court's order, the principal action considered in this SEIR is adoption and implementation of the *Marin CWP (2007)* with respect to the San Geronimo Valley and the potential for effects on salmonids. The SEIR will be used to fulfill the Court's mandate, and will be used by the Marin County Board of Supervisors in considering certification of the FEIR with respect to the application of the *Marin CWP*'s policies governing biological and wetland resources in San Geronimo Valley.

Function of this Draft SEIR and Future Environmental Review:

Consistent with the Final EIR, this Draft SEIR is a supplemental program EIR under Section 15168 of the State CEQA Guidelines. As described in State CEQA Guidelines Section 15168(a)(3), a program EIR "may be prepared on a series of actions that can be characterized as one large project and are related in connection with the issuance of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program." As a program SEIR, this document focuses on the overall effect of the *Marin CWP (2007)* with a focus on the potential cumulative impacts to salmonids in San Geronimo Valley. This analysis does not examine the effects of site-specific projects that may occur within the overall umbrella of this program in the future. The nature of general plans is such that many proposed policies are intended to be general, with details to be worked out during implementation. Thus, many of the impacts and mitigation measures are only intended to be described in general or qualitative terms. The analysis in this program SEIR is considered the first tier of environmental review, creating the foundation upon which future, project-specific CEQA documents can build. A program SEIR can be incorporated by reference into subsequently prepared CEQA documents

to address issues such as cumulative impacts and growth inducing impacts, allowing the subsequent documents to focus on new or site-specific impacts.

This Draft SEIR will help make the environmental review process for individual development applications more efficient, because it provides program level information and data specific to the San Geronimo Valley, which identifies potentially significant environmental impacts and associated mitigation measures that may be used in analyzing future site-specific development projects. Pursuant to State CEQA Guidelines Section 15152(a)(b), "Agencies are encouraged to tier the environmental analysis which they prepare for separate but related projects. This approach can eliminate repetitive discussions on the same issue and focus the later EIR or negative declaration on the actual issues ripe for decision at each level of environmental review."

The level of detail in the first-tier EIR (this Draft SEIR) should correspond to that of the program, plan, policy, or ordinance that is proposed, which this Draft SEIR achieves in accordance with State CEQA Guidelines Section 15152(b). When an agency is preparing a first-tier EIR for a broad planning action, such as a general plan or component thereof (i.e. San Geronimo Valley), development of detailed, site-specific information may not be feasible, but can be deferred until such time as the lead agency prepares a future environmental document in connection with a project of a more limited geographical scale (i.e. site-specific development) that implements the plan or policy, as long as deferral does not prevent adequate identification of significant effects of the planning approval at hand. State CEQA Guidelines Section 15152(c); *Rio Vista Farm Bureau Ctr. v. County of Solano* (1992) 5 CA4th 351. In compliance with CEQA, this Draft SEIR identifies the significant effects of approving the *Marin CWP (2007)* with respect to the potential impacts to salmonoids in the San Geronimo Valley, and provides program-level mitigation measures that specify the necessary performance standards which would mitigate the significant effects of the *Marin CWP (2007)* and which may be accomplished in more than one specified way. State CEQA Guidelines Section 15126.4(b).

Draft SEIR Process:

In August 2015, the County independently selected and contracted with a consulting firm, Stillwater Sciences, to prepare the supplemental environmental review documentation to the *2007 Countywide Plan FEIR* consistent with the Court's order. The evaluation and findings in the Draft SEIR provide the substantial evidence which the County relied on in determining that this Draft SEIR complies with CEQA and the Court order.

The Draft SEIR, a Notice of Availability (NOA) and Notice of Public Hearing on the Draft SEIR were posted on the Community Development Agency's website and distributed on May 1, 2017, to members of the Planning Commission, Board of Supervisors, State Clearinghouse, state and local agencies and special districts, and other interested groups and individuals. The NOA and Notice of Public Hearing were also published in a newspaper of general circulation to begin a 45-day public review and comment period on the adequacy of the Draft SEIR, which will conclude on June 15, 2017.

Draft SEIR summary of Conclusions:

The cumulative impacts analysis in this Draft SEIR evaluates the potential effects of future development (i.e., urbanization) on anadromous salmonids and their habitat in the San

Geronimo Valley under the *Marin CWP (2007)*. Based on the analyses in this Draft SEIR, two new potentially significant cumulative impacts and one new less-than-significant cumulative impact could occur.

As summarized below, four new mitigation measures have been identified. These new mitigation measures will reduce the new potentially significant cumulative impacts to a less-than-significant level. Additionally, two new voluntary mitigation measures have been identified, consistent with the County's commitment to avoiding or minimizing impacts to the maximum extent practicable. There would be no significant and unavoidable impacts.

This supplement to the Final EIR for the *Marin CWP (2007)* now contains the information necessary to make the Final EIR adequate for the project as revised (State CEQA Guidelines Section 15163(b)). This SEIR may be circulated by itself without recirculating the Final EIR (State CEQA Guidelines Section 15163(c)).

Potentially New Significant Impacts

Impact 5.1. Reduced Survival of Fry and Juvenile Salmonid Life Stages Due to Reduced Winter Rearing Habitat Quality. This impact was determined to be potentially significant due to alterations in hydrodynamic processes resulting from projected increases in TIA and other urbanization effects under the Proposed Project, which would make a cumulatively considerable contribution to increased winter storm flow magnitude and frequency, in turn causing additional habitat simplification and further compromising the ability of rearing coho salmon to find adequate refuge during high flows. Implementation of ***Mitigation Measure 5.1-1: Expanded SCA Ordinance*** and ***Mitigation Measure 5.1-2: Winter Habitat Enhancement Projects*** would reduce this impact to a less-than-significant level.

Impact 5.2. Reduced Salmonid Spawning Success Due to Increased High Flow Frequency and Magnitude and Elevated Sediment Delivery. This impact was determined to be potentially significant due to alterations in hydrodynamic processes resulting from projected increases in TIA and other urbanization effects under the Proposed Project, which would increase winter storm flow magnitude and frequency, and inputs of development-related fine sediment to stream channels. These conditions would further increase the risk of streambed and redd scour, thus making a cumulatively considerable contribution to the existing adverse impacts on coho salmon and steelhead spawning success. Implementation of ***Mitigation Measure 5.2-1: Control and Reduce Production and Delivery of Fine Sediment to Streams*** and ***Mitigation Measure 5.2-2: Stream Habitat Enhancement Projects*** would reduce this impact to a less-than-significant level.

Impact 5.3. Reduced Salmonid Summer Rearing Success Due to Degraded Habitat Conditions Including Reduced Habitat Complexity, Reduced Streamflow, and Increased Water Temperature. This impact was determined to be less than significant because potential reductions in stream habitat quality and riparian function related to future development in the watershed would be relatively minor and likely too small to substantially or measurably reduce the ability of juvenile salmonids to rear and grow during the summer rearing period. The potential for impacts on salmonid summer rearing success due to development-related reductions in summer baseflows could not be determined due to uncertainties in the current understanding of the potential hydrologic and biologic effects of groundwater pumping and

surface water diversions in San Geronimo Valley. While the Proposed Project is not capable of fully avoiding or eliminating impacts to water quality, sediment delivery, and instream habitat complexity associated with future development, it is unlikely that any such impacts would make a considerable contribution to the existing cumulative impacts on coho salmon and steelhead summer rearing success.

Although Impact 5.3 is less than significant, the County has nonetheless elected to pursue a number of voluntary mitigation measures consistent with its commitment to avoiding or minimizing impacts to the maximum extent practicable. ***Voluntary Mitigation Measure 5.3-1: Groundwater Study*** would provide required information to help determine whether existing and future groundwater pumping, surface water diversions, altered watershed hydrology, and other effects related to development are or would be likely to adversely impact summer baseflow in San Geronimo Creek. ***Voluntary Mitigation Measure 5.3-2: Summer Habitat Enhancement Projects*** would help facilitate improvements to stream and riparian habitat, protect summer streamflow, and improve water temperature and quality in the San Geronimo Creek watershed. These measures would improve understanding of development-related effects on salmonid summer rearing habitat in the watershed and assist with County efforts to protect and conserve habitat for these species.

PUBLIC HEARING:

The purpose of the public hearing is for the Planning Commission to receive oral and written comments on the adequacy of the Draft SEIR. Following the public hearing and the close of the public review and comment period on June 15, 2017, the EIR consultant will compile written responses to all comments, which, along with the Draft SEIR and any resulting changes to the Draft, will represent the Final SEIR. The Final SEIR will then be circulated to commentors for further review for a 14-day period, limited to the adequacy of the response to comments, prior to recommendation for certification of the Final SEIR by the Planning Commission.

RECOMMENDATION:

Staff recommends that after staff's presentation of a brief overview of the Project, the SEIR process, and a summary of the principal findings of the Draft SEIR by the EIR consultant, the Commission open the public hearing to public comment. At the conclusion of all public testimony, staff recommends that the Planning Commission:

1. Close the public hearing on the Draft SEIR;
2. Discuss those issues regarding the Project's impacts that are of primary concern to the Commissioners and provide direction to the EIR consultant on any additional items which should be addressed in the Final SEIR; and
3. Instruct the EIR consultant to prepare a Final SEIR based upon the written responses to all of the oral and written comments received at the Draft SEIR hearing, and all of the written comments received during the public review and comment period.