

Flood System Repair Project Draft Guidelines: Consolidated Response to Public Comments

The Flood System Repair Project (FSRP) Draft Guidelines were posted on February 22, 2013 for public review and soliciting public comments. Two public workshops were conducted, March 19 in Stockton and March 21 in Marysville to present information on the FSRP draft guidelines. The 45-day public review period ended on April 5, 2013. Comments were received by electronic mail and mail from seven different agencies and one from DWR FloodSAFE Environmental Stewardship and Statewide Resources Office (FESSRO). These comments have been reviewed and placed into five broad categories for a consistent response as listed below:

1. The FSRP does not promote multi-benefit projects incorporating large scale ecosystem function restoration and habitat enhancement components

Commenting agencies: US Fish and Wildlife Service, NOAA Marine and Fisheries Service, California Department of Fish and Wildlife, DWR – FESSRO, and NGOs

Comment summary:

The FSRP guidelines do not emphasize DWRs Environmental Stewardship Policy, Conservation Strategy (Framework) and the integrated approach with multi-benefit projects and ecosystem functions by providing large scale cost-share incentives to Local Maintaining Agencies (LMAs) for habitat enhancement, promoting ecosystem restoration functions, encouraging levee setbacks, and discouraging rock revetment type repairs.

Response:

The Central Valley Flood Protection Plan (CVFPP) defines near-term and long-term flood management goals and objectives associated with integrated water management. The State Systemwide Investment Approach (SSIA) provides a strategy for implementing a huge range of projects, that when considered as a package, successfully represent all aspects of the integrated water management vision. FSRP is one of the many near-term SSIA actions, with a primary goal of flood risk reduction for rural State Plan of Flood Control (SPFC) facilities, (although urban areas are also eligible for receiving the State cost-share for repair projects). FSRP will focus on repairing documented critical past performance problems in rural areas to reduce the need for emergency repairs and repair of damaged levee patrol roads to help manage residual flood risks,

while the large scale multi-benefit flood system improvement projects are being planned.

FSRP implementation is based on a leveed area (hydraulic basin) approach, which considers all known critical problems and repair alternatives, including levee setbacks, for the leveed area rather than individual critical sites. This approach is likely to promote sustainable operation and maintenance practices and promote multi-benefit projects. Long reaches involving too many critical problems will be deferred for addressing under other programs such as regional planning efforts, which are currently underway as part of the CVFPP. Such long term programs can provide linkages and opportunities to promote multi-benefit projects and enhance habitat and ecosystem function.

FSRP repair templates will be developed keeping in mind the Environmental Stewardship Policy as well as the Conservation Framework. The templates, similar to those developed for the DWR Small Erosion Repair Program (SERP), will minimize effects on fish and wildlife resources, including listed species, and enhance the existing aquatic and riparian habitats. Projects will also consider what is being proposed under the Conservation Strategy, so that funded projects will not preclude future projects developed to implement the Conservation Strategy.

DWR's base cost-share formula, which includes credit for open space, habitat, and recreation enhancements up to 20 percent, will be used for FSRP repair projects. Additionally, FSRP program-specific cost-share enhancements include credit for environmental awareness training as well as participation in a Corridor Management Strategy or similar planning efforts promoting multi-benefit projects. The Corridor Management Strategy embodies both the Conservation Strategy and DWR's Environmental Stewardship Policy.

2. The FSRP requires a Local Maintaining Agency (LMA) Cost-share for repair work

Commenting Agencies: California Central Valley Flood Control Association, MBK Engineers (for multiple LMAs)

Comments summary:

“The idea of a local cost share is inconsistent with the State’s historic approach to these types of repairs that have addressed deficiencies. LMAs have historically been responsible for operation and maintenance of levee systems. Repair, Replacement, and Rehabilitation projects have always been fully funded through Federal and/or State programs such as Sac Bank, PL 84-99, or DWR

Critical Repairs. As a result, LMAs have never developed revenue streams to cover cost sharing of Repair, Replacement, or Rehabilitation projects and thus, very few will have the financial means to participate in the FSRP as currently proposed....” “We may now have a situation where, if an LMA cannot afford a repair project that it never had to previously repair, a State Maintenance Area would be formed, and the State would assess the very people who declined to participate in the program...”

Response:

The existing funding shortages at all levels (federal, State, and LMAs) have resulted in deferred maintenance and repair of the SPFC facilities. The California voters have made available funds for repair of SPFC facilities along with other objectives that require maximizing federal and local cost-sharing with Proposition 1E. The Bond funds that support FSRP include this requirement.

The FSRP cost-share provisions are consistent with the CVFPP and SSIA which promotes partnerships with LMAs for flood risk reduction projects in which the LMAs need to contribute a local cost-share. To minimize cost impacts on rural LMAs the FSRP Guidelines incorporate FSRP specific cost-share enhancements beyond the State Cost-Share Formula for O&M performance, emergency response planning, and participation in multi-benefit projects. The local share can also be provided with in-kind services. DWR will work with LMAs to determine the most appropriate number and type of repairs based on the local funding ability.

The proposed cost-share approach attempts to move beyond a longstanding dispute on erosion repair responsibility. Justification, that FSRP projects are a shared responsibility, is based on an assertion that issues to be resolved address legacy design and construction and/or system obsolescence. Such issues cannot be assigned to a single entity as the benefits of proposed work support both State and Local interests.

3. The FSRP repair selection approach is “top-down”

Commenting Agencies: California Central Valley Flood Control Association, MBK Engineers (for multiple RDs)

Comment summary:

FSRP is a “top-down” program which will prioritize funding solely based on Department’s perception of risk. FSRP should be modified in consultation with all stakeholders in line with Early Implementation Program that was a successful program, for which flood risk was one of the minor factors in deciding funding priorities.

Response:

With the adoption of the CVFPP by the Central Valley Flood Protection Board, the SSIA outlines the priorities for near-term and long-term flood risk reduction projects. Unlike the Early Improvement Program which funded shovel-ready improvement projects in urban areas to increase the level of flood protection, the FSRP is a repair program expediting the repair of documented critical problems throughout the Central Valley with a focus on rural areas to reduce need for emergency repairs or flood fight needs.

A sound prioritization approach is needed to select a handful of critical sites out of more than 7,000 documented past performance problems of SPFC levees. A consistent application of the prioritization process is vital to achieving the FSRP goal of maximizing flood risk reduction throughout the 74 rural leveed areas (hydraulic basins). Additionally, prioritization of potential repair sites requires system-wide evaluation, which DWR is uniquely suited to do.

Local participation has been key to development and implementation of FSRP. Key LMA managers and representatives were consulted during the project guidelines development. The critical sites within each leveed area will be identified with LMA participation. In the summer of 2012, DWR walked the levees with LMA representatives, received the field input and evaluated all past performance problems of SPFC levees. The draft results of the evaluation process will be shared with LMAs to seek their consent, so that there is agreement between the State and LMAs on what constitute the worst sites for that hydraulic basin. The draft list of sites will be finalized only after consultation with LMAs.

The funding priority will be based on the leveed area rank, which in turn is based on the potential hazard of levee failure and the flood risk depending upon the calculated assets behind the levees. Further, if there are many critical sites in one leveed area, the critical sites may be prioritized based on the failure mode (overtopping, erosion, underseepage, and stability).

4. Consider programmatic CEQA and permitting approach for FSRP

Commenting agencies: US Fish and Wildlife Service, NOAA Marine and Fisheries Service, California Department of Fish and Wildlife,

Comment summary:

DWR should develop a programmatic CEQA compliance to account for cumulative impacts and permitting process or integrate into other regional permitting processes.

Response:

FSRP will coordinate with resource agencies to streamline the permitting process. A high level CEQA analysis - a Programmatic Environmental Impact

Report (PEIR) was prepared for the CVFPP. This PEIR can be used to tier-off further CEQA analysis appropriate to FSRP repairs. FSRP will be implemented by a leveed area approach. When there are multiple repair sites in a leveed area, a single environmental compliance package will be prepared. This approach may be more effective than a Central Valley-wide programmatic document in analyzing sub-reaches of the system for environmental impacts. In addition, cumulative impacts will be analyzed as a component of all CEQA documents for FSRP.

A Programmatic Biological Assessment (BA) was developed for FSRP type repairs in the San Joaquin area in consultation with the resources agencies that accounts for cumulative effects for the types of repairs that FSRP plans to implement. FSRP will use the San Joaquin Programmatic BA as a starting point and apply a similar approach to the Sacramento River System as well, with modifications in consultation with the resources agencies to work towards a programmatic permitting approach.