

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

In the Matter of Wastewater Petition WW0067

Western Riverside County Regional Wastewater Authority

**ORDER APPROVING CHANGE IN PLACE OF USE,
PURPOSE OF USE, AND QUANTITY OF DISCHARGE**

SOURCE: Prado Basin tributary to the Santa Ana River

COUNTY: Riverside

WHEREAS:

1. The Western Riverside County Regional Wastewater Authority (Authority) owns and operates the Western Riverside County Regional Wastewater Treatment Plant (Plant). The Plant produces tertiary treated wastewater that is discharged to the Orange County Water District diversion canal (Canal) tributary to Prado Basin thence the Santa Ana River.
2. Currently, the Plant has a design capacity of 8 million gallons per day (mgd) and currently discharges treated wastewater to the Canal at an average rate of 6.5 mgd for a total annual amount of approximately 7,240 acre-feet per year (afy). The Authority is completing construction at the Plant to expand the design capacity to 14 mgd. The Plant currently receives wastewater from the Western Municipal Water District, the City of Norco, the Jurupa Community Services District, and the Home Gardens Sanitary District. The City of Corona will begin sending wastewater to the Plant when the expansion project is completed.
3. Water Code section 1211 requires the owner of any wastewater treatment plant to obtain approval from the State Water Resources Control Board (State Water Board) prior to making any change in the point of discharge, place of use, or purpose of use of treated wastewater, when changes in the discharge or use of treated wastewater result in decreasing the flow in any portion of a watercourse.
4. On December 27, 2012, the Authority filed Wastewater Change Petition WW0067 with the State Water Board, pursuant to Water Code section 1211. The petition seeks authorization for the Authority's Recycled Water Project (project) to cease the discharge of treated wastewater, to change the place of use for treated wastewater, and change the purpose of use for treated wastewater. The treated wastewater would be supplied to the Authority's member agencies, and non-Authority members near the Plant may also be served.
5. As described by the Authority, the goal of the project is to decrease the dependency of the Authority and its member agencies on imported water, increase water supply reliability and replace potable water currently used for purposes appropriate for recycled water.

6. For the purposes of this order, the State Water Board's Division of Water Rights (Division) considers the following information as the Authority's existing point of discharge, place of use, and purpose of use of treated wastewater:
 - a. The point of discharge is located at North 1,796,056 feet and East 6,681,655 feet by California Coordinate System 1983, Zone 5, being within SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 10, T3S, R7W, SBB&M.
 - b. There is no place of use.
 - c. There is no purpose of use.
7. The Authority has not previously submitted or obtained approval of a wastewater change petition pursuant to Water Code section 1211.
8. Wastewater treatment and surface water discharge activities by the Authority are currently authorized by the Santa Ana Regional Water Quality Control Board under Order No. R8-2015-0013 (National Pollutant Discharge Elimination System Permit No. CA8000316).
9. The Division issued a public notice of the petition on January 10, 2013. A joint protest was filed by the U.S. Fish and Wildlife Service (Service) and the California Department of Fish and Wildlife (CDFW). The protest primarily concerned the potential impacts of the petition on special status species, including southwestern willow flycatcher and least Bell's vireo. Individual protests were filed by Orange County Water District (OCWD) and the Santa Ana Watershed Association (SAWA). The Division rejected the SAWA protest. The OCWD protest was withdrawn.
10. On August 15, 2017 the Authority, the Service and the CDFW entered into the "Adaptive Management and Monitoring Program to Evaluate the Potential Effects of the Reduction of Treated Wastewater Discharged by the Western Riverside County Regional Wastewater Authority to Riparian Habitat Associated with the Orange County Water District Santa Ana River Diversion Canal" (Adaptive Management Program). The Adaptive Management Program (Attachment 1) provides an adaptive management approach that seeks to ensure that the Authority's proposed reduction in discharge will not have adverse downstream impacts.
11. By letter to the Division dated October 4, 2017, the Service and the CDFW informed the Division that they are in agreement with the Authority as to the terms of the Adaptive Management Program, and to the inclusion of the following additional terms in any order issued by the Division approving the petition as a condition to withdrawal of their protest:
 - a. *Western Riverside County Regional Wastewater Authority shall comply with and fulfill all requirements of the Adaptive Management Program dated August 15, 2017.*
 - b. *Subsequent modifications to the Adaptive Management Program which are submitted by Western Riverside County Regional Wastewater Authority, the U.S. Fish and Wildlife Service, and the California Department of Fish and Wildlife shall be subject to review and approval by the Deputy Director for Water Rights. Modifications to the Adaptive Management Program (other than temporary changes identified in Section VI.2 thereof) shall only be made after notice and opportunity for a hearing.*
 - c. *The State Water Board reserves jurisdiction in the public interest to modify the terms and conditions of this order, including imposition of requirements to alter project facilities or operations and to modify instream flow releases. Modifications to this order shall only be made after notice and opportunity for a hearing.*

12. By letter to the Division dated October 16, 2017, the Authority confirmed its agreement with the Adaptive Management Program and to the additional terms as a condition of protest withdrawal by the Service and the CDFW.
13. The State Water Board has determined that the petition for change of place of use, purpose of use, and quantity of discharge will not cause injury to any other lawful user of water.
14. Under the California Environmental Quality Act (CEQA), the Authority is the lead agency for preparation of environmental documentation for the proposed project. On November 14, 2012, the Authority certified the final Environmental Impact Report (EIR), adopted the CEQA Findings, and adopted the Mitigation Monitoring and Reporting Program (MMRP) for the proposed project (SCH No. 2012031084). On November 19, 2012, the Authority issued a Notice of Determination (NOD). The State Water Board is a CEQA responsible agency for purposes of considering whether to approve the petition that will allow the Authority to proceed with the proposed project. As a CEQA responsible agency, the State Water Board must consider the environmental documentation prepared by the lead agency and any other relevant evidence in the record, and must reach its own conclusions on whether and how to approve the project involved. (Cal. Code Regs., tit. 14, § 15096, subd. (a).)
15. The State Water Board has considered the final EIR in deciding whether to approve the petition. Changes and alterations have been required in and incorporated into the project which avoid or substantially lessen the significant environmental effects on environmental resources within the State Water Board's purview, as identified in the final EIR. (See Cal. Code Regs., tit. 14, §§ 15091, subd. (a)(1); 15096, subd. (h).) The State Water Board will issue an NOD within five days of the date of this order.
16. As a responsible agency, the State Water Board must mitigate or avoid to the extent feasible the identified significant impacts to resources within the State Water Board's purview. In addition, the State Water Board must balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. (Cal. Code Regs., tit. 14, § 15093, subd. (a).) The significant impacts identified in the final EIR that may result from construction of the project and that fall within the State Water Board's purview are adverse impacts to sensitive species and habitats and adverse impacts to water quality.
17. The State Water Board prepared a MMRP which specifies implementation, monitoring, and reporting on the mitigation measures for the protection of resources within the State Water Board's purview (Attachment 2). Compliance with these measures is an enforceable term within this order. Adoption of mitigation measures described in the MMRP avoid or significantly minimize all of the significant impacts under the State Water Board's purview to a less than significant level.
18. In addition to any obligation the State Water Board may have under CEQA, the State Water Board has an independent obligation to consider the effect of the proposed change on public trust resources and to protect those resources where feasible. (*National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419 [189 Cal.Rptr. 346].) Staff evaluated potential effects to public trust resources in the December 12, 2017 memorandum titled Staff Evaluation of Potential Effect to Public Trust Resources Caused by Approval of WW0067 for reduction in discharge under the petition, including specific consideration of effects related to special-status plants or wildlife, instream flow, water quality and riparian habitat. Staff concluded that there will be no adverse effects to public trust resources are expected as a result of the change. The Deputy Director has reviewed staff's conclusions and recommendations, and concurs. With the inclusion of protest dismissal terms, standard terms and conditions, and mitigation measures evaluated in this order, the change will not cause an unreasonable effect to public trust resources and approval of the

project is not contrary to the State Water Board's public trust responsibilities.

19. The State Water Board has a Policy for Water Quality Control for Recycled Water (Recycled Water Policy), originally adopted on February 3, 2009 and amended on January 22, 2013. The purpose of the Recycled Water Policy is to increase the use of recycled water from municipal wastewater sources, and one of the goals for California, as stipulated in the Recycled Water Policy, is to increase the use of recycled water over 2002 levels by at least one million acre-feet per year by 2020, and by at least two million acre-feet per year by 2030. The Authority's project, as proposed in the petition, is consistent with the purpose of the Recycled Water Policy, and will help California meet the goals of the Recycled Water Policy.
20. Pursuant to Resolution 2012-0029, the State Water Board has delegated the authority to administer the State Water Board's water rights program to the Deputy Director for Water Rights, and the Deputy Director for Water Rights has redelegated the authority.

ORDER

NOW, THEREFORE, IT IS ORDERED THAT:

1. The point of discharge is unchanged.
2. The request to change the place of use is approved. The place of use for treated wastewater produced by the Authority is within the service areas of member agencies as shown on map dated July 19, 2017, filed with the State Water Board.
3. The request to change the purpose of use is approved. The purpose of use for treated wastewater produced by the Authority is Municipal.
4. The quantity of discharge of treated wastewater from the Plant to the Canal may be reduced by an average rate of up to 6.5 mgd, for a total reduction of 7,240 afy, from January 1 to December 31 of each year.
5. The Authority shall comply with and fulfill all requirements of the Adaptive Management Program dated August 15, 2017 on file with the State Water Board. Subsequent modifications to the Adaptive Management Program which are submitted by the Authority, the Service, and the CDFW shall be subject to review and approval by the Deputy Director for Water Rights. Modifications to the Adaptive Management Program (other than temporary changes identified in Section VI.2 thereof) shall only be made after notice and opportunity for a hearing.
6. The Authority shall obtain all necessary federal (including Clean Water Act section 404), state, and local agency permits and approvals required by other agencies prior to construction and operation of the project. Copies of such permits and approvals shall be forwarded to the Deputy Director for Water Rights.
7. The Authority is responsible for compliance with any applicable waste discharge or water recycling requirements issued by the Regional Water Board or the State Water Board.
8. The Authority shall comply with the mitigation terms pertaining to Biological Resources and Hydrology and Water Quality specified in the final EIR (see Attachment 2).
9. The Authority shall comply with the terms of the Western Riverside Species Habitat Conservation Plan dated June 22, 2004.

10. The State Water Board reserves jurisdiction in the public interest to modify the terms and conditions of this order, including imposition of requirements to alter project facilities or operations and to modify instream flow releases. Modifications to this order shall only be made after notice and opportunity for a hearing.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:
AMANDA MONTGOMERY, FOR

*Erik Ekdahl, Deputy Director
Division of Water Rights*

Dated: FEB 05 2018