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Agency Secretary

State Water Resources Control Board



Arnold Schwarzenegger
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Division of Water Rights
1001 I Street, 14th Floor ♦ Sacramento, California 95814 ♦ 916.341.5300
P.O. Box 2000 ♦ Sacramento, California 95812-2000
FAX: 916.341.5400 ♦ www.waterrights.ca.gov

NOTICE OF PETITION FOR CHANGE IN PURPOSE AND PLACE OF USE OF TREATED WASTEWATER

WASTEWATER CHANGE PETITION WW 43

PETITIONER: City of Tracy

PETITION FILED: July 8, 2004

STREAM SYSTEM: Old River tributary to San Joaquin River

COUNTIES: Alameda, Contra Costa and San Joaquin

Notice is hereby given that the City of Tracy, Public Works Department (City) filed a petition for change in the purpose and place of use of treated wastewater. The State Water Resources Control Board (State Water Board) will determine whether an order approving the wastewater change petition should be issued and, if so, whether conditions are needed in the order to protect the environment, the public interest, and downstream water users. This notice provides a description of the project and also describes the procedure and time frame for submittal of protests against the petition. This notice may be viewed at the Division of Water Rights' (Division) website at www.waterboards.ca.gov. Any correspondence directed to the petitioners should be mailed to:

City of Tracy
c/o Martha H. Lennihan
Lennihan Law
2311 Capitol Avenue
Sacramento, CA 95816

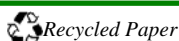
Description of Existing Project: The City owns and operates its wastewater treatment plant (WWTP). The City of Tracy is currently authorized under its NPDES Permit No. CA 0079154 to discharge up to 9.0 million gallons per day (mgd) (13.9 cubic feet per second [cfs]), average dry weather flow, of treated wastewater into Old River at a point three miles North of the City of Tracy in the SE¼ of the NE¼ of projected Section 34, T1S, R5E MDB&M, as shown on the map accompanying the change petition. The City currently discharges 8.1 to 8.4 mgd (12.5 to 13.0 cfs) of treated wastewater into Old River.

The City is in the process of upgrading its WWTP from secondary to tertiary treatment standards, as well as increasing its capacity from 9.0 mgd to 10.8 mgd (16.7 cfs). The City is scheduled to produce tertiary-treated wastewater in 2007.

Summary of Existing Wastewater Discharge:

County: San Joaquin.
Receiving
Watercourse: Old River tributary to San Joaquin River.

California Environmental Protection Agency



Point of

Discharge: SE¹/₄ of NE¹/₄ of Projected Section 34, T1S, R5E, MDB&M.

Discharge

Amount: 12.5 to 13.0 cfs of treated wastewater.

Season: January 1 to December 31.

Petition Summary

Water Code section 1211 (a) requires the owner of a wastewater treatment facility to receive approval from the State Water Board of any change in the purpose of use, place of use, and point of discharge of treated water. The City has petitioned to add the use of treated wastewater for industrial and irrigation purposes as authorized purposes of use. Water will be piped at a maximum rate of 12.5 cfs with a maximum annual quantity of 5,900 acre-feet using an approximately 11-mile long, 30-inch diameter recycled water pipeline from the wastewater treatment facility to the Tesla Power Plant. At the power plant, water will be used for cooling purposes and irrigation of a net area of 5.1 acres within the 60 acres power plant site. The City will not abandon its existing point of discharge.

The new place of use is located within the SW¹/₄ of SE¹/₄ of Section 30, T2S, R4E, MDB&M (powerplant); SE¹/₄ of SE¹/₄ of Section 30, T2S, R4E, MDB&M (irrigation); and SW¹/₄ of SW¹/₄ of Section 29, T2S, R4E, MDB&M (irrigation), within Alameda County as shown on a map dated July 2004 filed with the State Water Board.

Environmental Information

Licensing of the proposed power plant is within the California Energy Commission's (CEC) jurisdiction. (Pub. Resources Code § 25500.) The CEC's process is functionally equivalent to the preparation of an Environmental Impact Report under the California Environmental Quality Act (CEQA). (Pub. Resources Code § 21080.5; 14 Cal. Code Regs § 15251[k].) When issuing a license, the CEC is the lead agency for purposes of CEQA. (Pub. Resources Code § 25519[c].) The State Water Board as a responsible agency under CEQA is required to use the CEC's functionally equivalent document in granting an approval for the same project. (14 Cal. Code Regs. § 15253(a).)

On May 13, 2004, the CEC issued a Revised Final Presiding Members Decision document on the Tesla Power Plant Application for Certification pursuant to the Public Resources Code. On June 16, 2004, the CEC issued a Final Commission Decision. These and other documents concerning the Tesla Power Plant Application for Certification are available to the public at the CEC, 1516 Ninth Street, Sacramento, California 95814. The final decision and other information are also available at the CEC's website (www.energy.ca.gov).

If you are not filing a protest, but wish to submit information that indicates the project may cause a significant effect on the environment, please send this information to Steven Herrera; State Water Resources Control Board, Division of Water Rights; P.O. Box 2000; Sacramento, CA 95812-2000. This information will be reviewed in accordance with CEQA.

PROTEST SUBMITTAL INFORMATION

Protest Requirements

A person may file a protest based on any of the following factors:

- Interference with prior water rights.
- Adverse environmental impact.
- Not in the public interest.
- Contrary to law.
- Not within the jurisdiction of the State Water Board.

All protests must clearly describe the objections to approval of the petition, and the factual basis for those objections. For example, if the objection is based on injury to existing water rights, the protest must describe the specific injury to the existing water right that would result from approval of the changes proposed by the petition. In addition, the party claiming injury to prior water rights must provide specific information that describes the basis of the existing right, the date the use began, the quantity of water use, the purpose of use, and the place of use. Protests based on environmental impacts, public interest, legality, or jurisdictional issues must be accompanied by a statement of facts supporting the basis of the protest. If sufficient information is not submitted, the State Water Board may reject the protest or request that the protestant submit additional information. Protests of a general nature (not project specific) or protests that are inconsistent with constitutional or legislated state policy will not be accepted. A request for information or a request that studies be conducted does not constitute a protest. **The Division will not accept protests that are directed against the underlying water right, rather than the change proposed by the petition.**

Procedure for Submitting Protests

Protests should be submitted on standard protest forms available from the Division of Water Rights' website at www.waterboards.ca.gov/forms/ or upon request from the Division of Water Rights. A pamphlet that provides additional information relating to water rights and the procedure for filing protests is also available on the website or by mail. Any requests or the submittal of the completed protest form should be directed to the engineer listed as the contact person at the end of this notice. **A copy of the completed protest form must also be mailed to the petitioner and should include a description of any measures that could be taken to resolve the protest.**

Protest Submittal Deadline

Protests submitted in response to this notice must be received by the Division by 3:00 p.m. on the **30th** day after the date of this notice (the close of the protest period). Protests may be submitted by any of the following methods:

1. Mailed to Division of Water Rights; P. O. Box 2000; Sacramento, CA 95812-2000
2. Faxed to the Division at (916) 341-5400
3. E-mailed to the engineer listed below under the heading "Contact Person"
4. Hand-delivered to the Division office located at 1001 "I" Street, 14th Floor, Sacramento, CA

If you choose to fax or e-mail the protest due to the constraints of the noticing period, the fax or e-mail must be followed by timely delivery of an original signed copy, either personally or by mail, to the Division of Water Rights in order for the protest to be accepted. The State Water Board will

respond to all protests within 60 days of the final day to file a protest. **Protests not submitted by the close of the protest period will be subject to rejection.**

For good cause, the State Water Board may grant an extension of time to file a protest. It is the protestant's responsibility to contact the engineer listed below as "Contact Person" to request the extension prior to the end of the protest period.

Resolution of Protests

The petitioners will have 30 days to respond to a protest once it is accepted by the Division of Water Rights. The protestant and the applicant are expected to make a good faith effort to resolve the protest within 180 days from the close of the protest period.

CONTACT PERSON

To obtain additional information regarding this project, or to obtain copies of protest forms, or general information pamphlets, please contact Katherine Mrowka by phone at (916) 341-5363 or by electronic mail at kmrowka@waterboards.ca.gov. Information and protest forms are also available at the Division's website: www.waterboards.ca.gov/forms/.

Date of Notice: **SEPTEMBER 16, 2005**

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