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State Water Resources Control Board

TO: David Leland, P.E.
Assistant Executive Officer
NORTH COAST REGIONAL WATER QUALITY CONTROL BOARD

FROM: Melissa Hall, P.E.
Senior Water Resource Control Engineer
OFFICE OF ENFORCEMENT

DATE: 13 July 2015

SUBJECT: RUSSIAN RIVER WASTEWATER TREATMENT FACILITY, DETERMINATION OF ELIGIBILITY FOR COMPLIANCE PROJECT AS A SMALL COMMUNITY WITH A FINANCIAL HARDSHIP

Background and Summary

On 10 April 2015, the North Coast Regional Water Quality Control Board (Regional Water Board), in preparing to issue an administrative civil liability complaint for discharges from the Russian River Wastewater Treatment Facility (WWTF), provided the Russian River County Sanitation District (Russian River CSD), *via* a letter to the Sonoma County Water Agency (Operator) (collectively, Discharger), with copies of the draft table of violations for which the Regional Water Board is required to impose mandatory minimum penalties (MMPs) pursuant to California Water Code (Water Code) section 13385, subdivisions (h) and (i), and the draft methodology relied on to determine a discretionary fine for unauthorized discharges. The letter transmitting these drafts noted that liability was proposed based in part on the Discharger's exceedance of effluent limitations set forth in Waste Discharge Requirements (WDRs) Order No. R1-2009-0003 (NPDES No. CA0024058).

On 30 April 2015, the Discharger responded to the Regional Water Board, transmitting comments on the drafts provided, including information to support allowance of a compliance project. *Based on the analysis below, the Russian River CSD does serve a community that has a financial hardship and therefore, does qualify for a compliance project.*

Analysis

Russian River CSD owns the WWTF, a publicly owned treatment works (POTW), located at 18400 Neeley Road, Guerneville, in Sonoma County. Water Code section 13385, subdivision (k), provides that the State Water Resources Control Board (State Water Board) or Regional Water Board may, contingent upon certain findings, require a POTW serving a small community to spend an amount of money equivalent to the MMP amount toward the completion of a compliance project proposed by the POTW, in lieu of paying the penalty amount to the State Water Board's Cleanup and Abatement Account. Water Code section 13385, subdivision (k)(2), defines a POTW "serving a small community" as:

"[A] publicly owned treatment works serving a population of 10,000 persons or fewer or a rural county, with a financial hardship as determined by the state board after considering such factors as median income of the residents, rate of

unemployment, or low population density in the service area of the publicly owned treatment works.”

Determining whether a POTW is “serving a small community” entails two separate determinations, whether: (1) the POTW is either situated within a rural county or has a population of 10,000 or less; and (2) the POTW’s service area has a “financial hardship.”

1. Rural County/Population Cap

The State Water Board’s Water Quality Enforcement Policy¹ (*Enforcement Policy*), defines a “rural county” as “a county classified by the Economic Research Service, United States Department of Agriculture (ERS, USDA) with a rural-urban continuum code of four through nine.”

The Russian River WWTF is a POTW located in Sonoma County. According to the 2013 Rural Urban Continuum Codes file updated 10 May 2013,² Sonoma County has a rural-urban continuum code of two (Metro - Counties in metro areas of 250,000 to 1 million population) and therefore, does not fall within the “rural county” classification. Based on United States Census Bureau data discussed below, the block groups encompassing the POTW service area have a population of 5,659, which meets the population requirement.

2. Financial Hardship

Consistent with Water Code section 13385, subdivision (k)(2), the *Enforcement Policy*, at page 24, defines “financial hardship” in terms of median household income (MHI), unemployment rate and poverty level. Specifically, the *Enforcement Policy* defines “financial hardship” as meaning that the community served by the POTW meets one of the following criteria:

- *Median household income*⁴ for the community is less than 80 percent of the California median household income;
- *The community has an unemployment rate*⁵ of 10 percent or greater; or
- *Twenty percent of the population is below the poverty level.*⁶

“Median household income,” “unemployment rate,” and “poverty level” of the population served by the POTW are based on the most recent U.S. Census block group⁷ data or a local survey approved by the Regional Water Board in consultation with the State Water Board.

⁴ **Median household income** The median income divides the income distribution into two equal groups, one having incomes above the median and the other having incomes below the median.

⁵ **Unemployed** All civilians, 16 years and older, are classified as unemployed if they (1) were neither “at work” nor “with a job but not at work” during the reference week, (2) were actively looking for work during the last 4 weeks, and (3) were available to accept a job. Also included as unemployed are civilians who (1) did not work at all during the reference week, (2) were waiting to be called back to a job from which they had been laid off, and (3) were available for work except for temporary illness.

⁶ **Poverty** Following the Office of Management and Budget’s Directive 14, the Census Bureau uses a set of income thresholds that vary by family size and composition to detect who is poor. If the total

¹ A copy of the State Water Board’s Water Quality Enforcement Policy is available at http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf.

² <http://www.ers.usda.gov/data-products/rural-urban-continuum-codes.aspx>, accessed 9 March 2015.

income for a family or unrelated individual falls below the relevant poverty threshold, then the family or unrelated individual is classified as being "below the poverty level."

⁷ **Block group** A subdivision of a census tract (or, prior to 2000, a block numbering area). A block group is the smallest geographic unit for which the Census Bureau tabulates sample data. A block group consists of all the blocks within a census tract beginning with the same number. Example: block group 3 consists of all blocks within a 2000 census tract numbering from 3000 to 3999. In 1990, block group 3 consisted of all blocks numbered from 301 to 399Z."

Based on the Russian River CSD boundary line file provided by Mr. Courtney Ellerbusch of the Sonoma County Water Agency on 15 April 2015 and United States Census Bureau tract and block group map layers available in ArcGIS, the Russian River CSD's service area appears to lie wholly within Sonoma County Census Tract 1537.03, including portions of Block Groups 1, 3, 4, and 5 within that Tract, and Census Tract 1537.04, including Block Groups 1, 2, 3, and 4 within that Tract, as shown in Figure 1.

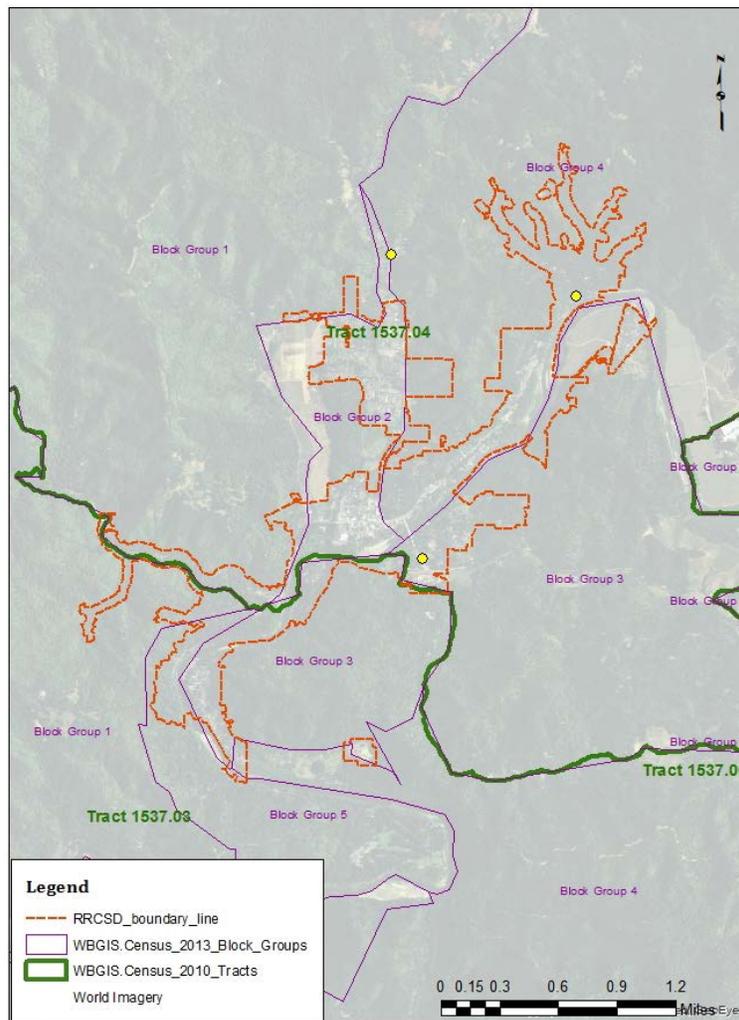


Figure 1 – Russian River County Sanitation District, Census Tract, and Census Block Group Boundaries

As the 2010 decennial census did not include collection of economic data, the most recent available economic data are from the United States Census Bureau’s on-going American Community Survey (ACS) estimates. For smaller communities such as Russian River, ACS data are only available for 5-year estimates. The most recent available 5-year estimate with block group data is that for 2013.

Selected data tables may be retrieved through the Census Bureau's American FactFinder portal, available at <http://factfinder.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t>. The following tables were identified as providing the necessary information at the block group level, and their data were retrieved (block-group level data provided in Attachment A):

Table #	Table Description	Tract 1537.03 Block Groups 1, 3, 4 and 5 2013 5- year	Tract 1537.04 Block Groups 1, 2, 3 and 4 2013 5- year	Combined Block Group Data 2013 5-year	California 2013 5-year	Financial Hardship Criterion
B01003	Total Population	2,285 people	568 people	5,659 people	N/A	Population <10,000 criteria met
B19001	Household Income in the Past 12 Months (In 2013 Inflation-Adjusted Dollars)	1,194 households	1,650 households	2,844 households	N/A	N/A
B19013	Median Household Income In The Past 12 Months (In 2013 Inflation- Adjusted Dollars)	\$41,531 (household- weighted by block group)	\$36,975 (household- weighted by block group)	\$38,888 (household- weighted by block group)	\$61,400	MHI less than 80% of CA MHI 80% CA MHI = \$49,120 criteria met
B23025	Employment Status For The Population 16 Years And Over	1,125 in labor force. Of those, 160 unemployed. 14% unemployed	1,571 in labor force. Of those, 274 employed. 17% unemployed	2,696 in labor force. Of those, 434 unemployed. 16% unemployed	N/A	Unemployment rate 10% or greater criteria met
C17002	Ratio of Income to Poverty Level in the Past 12 Months	454/2,285 20% below poverty level	968/3,374 29% below poverty level	1,422/5,659 25% below poverty level	N/A	20% below poverty level criteria met

Based on the *Enforcement Policy's* criteria and the most recent U.S. Census block group data, the Russian River County Sanitation District does qualify as a small community with a financial hardship. If the Discharger believes that the U.S. Census data used in this determination do not accurately represent the population served by the Russian River WWTF, the *Enforcement Policy* provides for the possibility of a local survey approved by the Regional Water Board in consultation with the State Water Board (p. 24) and a procedure by which the Discharger may present an alternative justification to the Regional Water Board for designation as a "POTW serving a small community (p. 25)." Pursuant to the *Enforcement Policy*, the Regional Water Board must consult with the State Water Board when making such determinations.

Attachment: Summary of American FactFinder Tract and Block Group Data

cc: Naomi Kaplowitz
Office of Enforcement
State Water Resources Control Board

Attachment A

Summary of American FactFinder 2013 5-Year Data Retrieved for Pertinent Sonoma County Tracts and Block Groups

Tract 1537.03	Table B01003 Total Population	Table C17002 Ratio of Income to Poverty Level in the Past 12 Months		Table B19001 Household Income in the Past 12 Months (In 2013 Inflation- Adjusted Dollars)	Table B19013 Median Household Income in the Past 12 Months (In 2013 Inflation- Adjusted Dollars)	Table B23025 Employment Status for the Population 16 Years and Over		
Block Group	HD01_VD01 Population	HD01_VD02 <0.5	HD01_VD03 0.5 - 0.99	HD01_VD01 Households	HD01_VD01 Median Household Income	HD01_VD02 In Labor Force	HD01_VD05 Civilian Labor Force, Unemployed	
1	840	72 21% below poverty level	105	402	\$49,821	386 12.2% unemployment rate	47	
3	467	46 14% below poverty level	19	316	\$37,500	248 10.9% unemployment rate	27	
4	487	66 31% below poverty level	85	175	\$37,396	259 25.1% unemployment rate	65	
5	491	0 12% below poverty level	61	301	\$37,096	232 9.1% unemployment rate	21	
Tract Totals:	2,285	184	270	1,194		Tract Totals:	1,125	160
		In poverty, this census tract:	20%			Unemployed, this census tract:	14%	
		Household-Weighted Median Household Income, This Tract:			\$41,531			

Tract 1537.04	Table B01003 Total Population	Table C17002 Ratio of Income to Poverty Level in the Past 12 Months		Table B19001 Household Income in the Past 12 Months (In 2013 Inflation- Adjusted Dollars)	Table B19013 Median Household Income in the Past 12 Months (In 2013 Inflation- Adjusted Dollars)	Table B23025 Employment Status for the Population 16 Years and Over		
Block Group	HD01_VD01 Population	HD01_VD02 <0.5	HD01_VD03 0.5 - 0.99	HD01_VD01 Households	HD01_VD01 Median Household Income	HD01_VD02 In Labor Force	HD01_VD05 Civilian Labor Force, Unemployed	
1	707	14 30% below poverty level	197	341	\$34,420	308 16% unemployment rate	50	
2	719	39 26% below poverty level	146	329	\$34,844	288 9.4% unemployment rate	27	
3	729	60 29% below poverty level	148	316	\$47,500	318 35% unemployment rate	111	
4	1,219	223 30% below poverty level	141	664	\$34,333	657 13% unemployment rate	86	
Tract Totals:	3,374	336	632	1,650		Tract Totals:	1,571	274
		In poverty, this census tract:	29%			Unemployed, this census tract:	17%	
		Household-Weighted Median Household Income, This Tract:			\$36,975			

Community Totals:	5,659	520	902			Community Totals:	2,696	434
		In poverty, this community:	25%			Unemployed, this community:	16%	
		Household-Weighted Median Household Income, This Community:			\$38,888			
		California Median Household Income:			\$61,400			
		80% California Median Household Income:			\$49,120			