

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

DIVISION OF WATER RIGHTS

In the Matter of Wastewater Petition WW0081

City of Woodland

**ORDER APPROVING CHANGE IN
PURPOSE OF USE AND PLACE OF USE**

SOURCE: Tule Canal

COUNTY: Yolo County

WHEREAS:

1. The City of Woodland (City) filed Wastewater Change Petition WW0081 with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) on January 16, 2015, pursuant to Water Code section 1211. The petition seeks to change the purpose of use and place of use of up to 0.5 million gallons per day (mgd), or 0.775 cubic feet per second (cfs) up to 560 acre-feet annually (afa), of treated wastewater from the City's Water Pollution Control Facility (WPCF) as part of the City's Recycled Water Project.
2. The City's WPCF operates under National Pollutant Discharge Elimination System Permit No. CA0077950, Waste Discharge Requirements Order R5-2014-0120 issued by the Central Valley Regional Water Quality Control Board, which allows the discharge of an average daily flow of 10.4 mgd of disinfected tertiary treated wastewater effluent from the WPCF to Tule Canal. The City is also upgrading the WPCF's secondary treatment process to Modified Lutzak-Ettinger fine bubble diffuser aeration with an anoxic zone for denitrification and improved process control. The planned changes to the treatment process will allow the WPCF to meet Title 22¹ requirements for use of recycled water. With the Recycled Water Project, the City proposes to provide a portion of its tertiary-treated wastewater effluent for industrial and landscape irrigation uses to properties within the City limits. The areas that will be initially used are approximately 800 acres within Sections 26, 27, 34, 35, and 36, T10N, R2E, MDB&M.
3. The proposed change in wastewater operations would divert for re-use treated wastewater generated by the City's WPCF. This treated wastewater is currently discharged to Tule Canal, tributary to Cache Creek thence the Sacramento River, at a point located at California Coordinate System NAD 83, Zone 2, North 2,010,280 feet, and East 6,662,976 feet, being within NE¼ of SW¼ of Section 28, T10N, R3E, MDB&M. With the change petition, the City is requesting to divert up to 0.5 mgd of the treated wastewater for industrial and irrigation uses within the City limits.
4. The State Water Board has determined that the petition for change in the purpose of use and place of use will not cause injury to any other lawful user of water.
5. Under the California Environmental Quality Act (CEQA), the City is the lead agency for preparation of environmental documentation for the project. On February 17, 2015, the City issued a final Mitigated Negative Declaration (MND) titled Woodland Recycled Water Project, SCH # 2015012031.

¹ "Title 22" in this context means California Code of Regulations, title 22, division 4, chapter 3.

On March 19, 2015, the City issued a Notice of Determination (NOD) for the project.

6. Public notice of the change was issued on May 6, 2015. No protests were received. However, in a June 24, 2015 email to the Division, California Department of Fish and Wildlife (DFW) staff, although they determined a protest of WW0081 was not necessary, made the following recommendations regarding mitigation measures Bio-4 and Bio-7 included in the City's MND for the Recycled Water Project:

Mitigation Measure Bio-4 states that "If impacts to suitable nesting habitat on site are proposed, avoidance of significant impacts to nesting birds could be achieved by removing suitable nesting habitat outside of the breeding season (February 15 to August 31 for most birds, January 15 to August 31 for raptors) to ensure that no active nests are disturbed" as a means to avoid disturbing nesting birds. The Department believes that the removal of a recently active Swainson's hawk (SWHA) nest outside of the nesting season is in itself a significant effect on the SWHA and could easily affect their ability to breed in the following year, therefore reducing productivity for this State Threatened species. The Department recommends retaining recently active nest trees to avoid this significant effect, and recommends the following language as a condition of approval to avoid disturbing breeding raptors:

"In order to avoid disturbing protected raptors (FGC § 3503.5), a pre-construction raptor nest survey shall be conducted within a quarter-mile (1320 feet) of the project site, and within 15 days prior to the beginning of construction activities by a California Department of Fish and Wildlife (DFW) approved biologist in order to identify active nests in the project site vicinity. The results of the survey shall be submitted to the CEQA Lead Agency and the DFW. If active nests are found, a quarter-mile initial temporary nest disturbance buffer shall be established. If project related activities within the temporary nest disturbance buffer are determined to be necessary during the nesting season, then an on-site biologist/monitor experienced with raptor behavior shall be retained by the project proponent to monitor the nest, and shall along with the project proponent, consult with the DFW to determine the best course of action necessary to avoid nest abandonment or take of individuals. Work may be only allowed to proceed within the temporary nest disturbance buffer if raptors are not exhibiting agitated behavior such as defensive flights at intruders, getting up from a brooding position, or flying off the nest, and only with the agreement of the DFW. The designated on-site biologist/monitor shall be on-site daily while construction related activities are taking place within the above quarter-mile buffer and shall have the authority to stop work if raptors are exhibiting agitated behavior."

Mitigation Measure Bio-7 describes actions to take place in order to avoid impacts to the giant garter snake (GGS). It's important to note that any activities that could result in Take (FGC § 86) of GGS (including but not limited to ground disturbance or vehicle use within 200 feet of any GGS aquatic habitat at any time of year) would require the City to secure Take authorization under section 2080 et seq. of Fish and Game Code (FGC) prior to conducting those activities.

7. The State Water Board is a CEQA responsible agency for purposes of considering whether to approve the wastewater change petition that will allow the City 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 reach its own conclusions on whether and how to approve the project involved. (Cal. Code Regs., tit. 14, § 15096, subd. (a).) The State Water Board has considered the MND in deciding whether to approve the petition. There is no evidence that approval of the wastewater change petition, with the lead agency implementing mitigation measures from the MND to minimize impacts to cultural and biological resources, will have any adverse impacts on the environment. The State Water Board will issue a NOD within five days of the date of this order.

8. 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 project on public trust resources and to protect those resources where feasible. (*National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419.) Therefore, this Order will require that Woodland comply with DFW's June 24, 2015 recommended procedures when monitoring for raptors and GGS during construction activities. Further, the mitigation measures in the MND will minimize impacts to biological and cultural resources and no adverse impacts to public trust resources are expected.

ORDER

NOW, THEREFORE, IT IS ORDERED THAT:

1. The City is authorized to change the purpose of use and place of use of 0.775 cfs (0.5 mgd) (up to 560 afa) of treated wastewater effluent that would otherwise have been discharged from the City's WPCF to the Tule Drain during the period of January 1 to December 31 of each year.
2. The point of discharge for treated wastewater effluent shall remain unchanged, located at California Coordinate System NAD 83, Zone 2, North 2,010,280 feet, and East 6,662,976 feet, being within the NE¼ of SW¼ of Section 28, T10N, R3E, MDB&M in Yolo County.
3. The authorized place of use is within the service area of the City of Woodland as shown on the project map dated June 15, 2015, on file with the State Water Board.
4. The purposes of use are industrial and irrigation purposes.
5. During construction activities for the City's Recycled Water Project, the City shall monitor for protected raptors and giant garter snakes as follows:
 - a) In order to avoid disturbing protected raptors (FGC § 3503.5), a pre-construction raptor nest survey shall be conducted within a quarter-mile (1320 feet) of the project site, and within 15 days prior to the beginning of construction activities by a California Department of Fish and Wildlife (DFW) approved biologist in order to identify active nests in the project site vicinity. The results of the survey shall be submitted to the City of Woodland and DFW. If active nests are found, a quarter-mile initial temporary nest disturbance buffer shall be established. If project related activities within the temporary nest disturbance buffer are determined to be necessary during the nesting season, then an on-site biologist/monitor experienced with raptor behavior shall be retained by the City to monitor the nest, and shall along with the City, consult with DFW to determine the best course of action necessary to avoid nest abandonment or take of individuals. Work may be only allowed to proceed within the temporary nest disturbance buffer if raptors are not exhibiting agitated behavior such as defensive flights at intruders, getting up from a brooding position, or flying off the nest, and only with the agreement of the DFW. The designated on-site biologist/monitor shall be on-site daily while construction related activities are taking place within the above quarter-mile buffer and shall have the authority to stop work if raptors are exhibiting agitated behavior.
 - b) The City is required to secure Take authorization under section 2080 et seq. of Fish and Game Code prior to conducting any activities that could result in Take (Fish & G. Code, § 86) of giant

garter snakes (including but not limited to ground disturbance or vehicle use within 200 feet of any giant garter snake aquatic habitat at any time of year).

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:
AMANDA MONTGOMERY FOR

Barbara Evoy, Deputy Director
Division of Water Rights

Dated: JUL 9 2015