

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

DIVISION OF WATER RIGHTS

In the Matter of Wastewater Petitions WW0019 and WW0091

City of Burbank

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

SOURCE: Burbank Western Channel thence Los Angeles River

COUNTY: Los Angeles

WHEREAS:

1. 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.
2. The City of Burbank Water and Power Department (Burbank) owns and operates the Burbank Water Reclamation Plant (Burbank WRP), which treats wastewater collected from the City of Burbank and provides treated water for recycled water uses in the City of Burbank. A portion of the treated wastewater is discharged to the Burbank Western Channel. The maximum treated wastewater design capacity at the Burbank WRP is approximately 12.5 million gallons per day (mgd) up to a total of 14,001 acre-feet per year (afy). All of the water treated at the Burbank WRP is imported from outside the region by the Metropolitan Water District of Southern California.
3. Burbank previously obtained approval from the State Water Board for a change in place and purpose of use resulting in a reduction in discharge of 647 afy to the Burbank Western Channel. The State Water Board approved the petition by order WW0019 dated March 4, 1993 (1993 Order).
4. On May 18, 2016, Burbank filed Wastewater Change Petition WW0091, pursuant to Water Code section 1211. On March 21, 2017 Burbank concurrently filed an amended wastewater change petition WW0091, and a petition for change in the place of use to WW0019. The two petitions are collectively referred to in this order as "the petitions" or "the Project." The WW0091 petition seeks authorization to change the place of use and purpose of use for treated wastewater that would result in reduced discharges to the Burbank Western Channel. The change petition for WW0019 seeks to expand the place of use to encompass all of Burbank's service area and portions of the City of Los Angeles. According to the petitions, Burbank has not, and does not abandon any treated wastewater flows discharged to the Burbank Western Channel.

5. The Project would expand Burbank's recycled water system and provide tertiary-treated recycled water to additional customers in the City of Burbank and portions of the City of Los Angeles for irrigation and industrial purposes, thereby reducing discharges of treated effluent from the Burbank WRP to the Burbank Western Channel, which flows to the Los Angeles River. One goal of the Project is to decrease the dependency of Burbank on imported water and replace potable water currently used for purposes appropriate for recycled water in the Upper Los Angeles River Area.
6. Redirection of treated wastewater generated by Burbank will reduce the amount of treated water discharged from the Burbank WRP to the Burbank Western Channel by a maximum monthly rate of up to 2.97 mgd, for a reduction of up to 1,610 afy, from December 1 to January 31 of each year, in addition to the 647 afy authorized by the 1993 Order. This reduction will occur gradually from approval of this order until 2025. The total authorized annual reduction in discharges under both WW0019 and WW091 is 2,257 afy.
7. For the purposes of this order, the State Water Board considers the following information as Burbank's existing point of discharge, place of use, and purpose of use of treated wastewater:
 - a. The point of discharge is located at North 1,889,101 feet and East 6,465,491 feet by California Coordinate System NAD 1983, Zone 5, being within NW ¼ of SE ¼ of projected Section 11, T1N, R14W, SBB&M.
 - b. The existing place of use per WW0019 is the eastern portion of the City of Burbank, northeast of Interstate 5.
 - c. The existing purpose of use per WW0019 is irrigation and industrial.
8. Wastewater treatment and surface water discharge activities by Burbank are currently authorized by the Los Angeles Regional Water Quality Control Board (Regional Water Board) under Order No. R4-2017-0064 (National Pollutant Discharge Elimination System Permit No. CA0055531).
9. The Division of Water Rights issued a public notice of the petitions on March 29, 2017 in accordance with Water Code section 1703. A protest was filed jointly by the City of Los Angeles Department of Water and Power (LADWP) and Los Angeles Sanitation (LASAN). The protest alleges public interest and cumulative environmental impacts to the multiple beneficial uses of the Los Angeles River associated with the Project as well as various planned and potential future projects by the City of Los Angeles and others that may affect the Los Angeles River.
10. At the State Water Board meeting held in Los Angeles on November 8, 2017, the Division made a presentation on the wastewater change petition process and beneficial uses of the Los Angeles River. Numerous agencies including the Cities of Los Angeles and Burbank made presentations regarding various projects potentially affecting Los Angeles River flows. No action was taken by the State Water Board at this meeting.
11. The State Water Board has reviewed the petitions, protests, and the whole record. The State Water Board finds that the petitions for change of place of use, purpose of use and quantity of discharge to a watercourse will not cause injury to any other lawful user of water.
12. Under the California Environmental Quality Act (CEQA), Burbank is the lead agency for preparation of environmental documentation for the Project. In August 2017, Burbank certified the final Initial Statement/Negative Declaration (IS/ND), adopted the CEQA Findings, and adopted the IS/ND. On September 14, 2017, Burbank issued a Notice of Determination (NOD). The State Water Board is a CEQA responsible agency for purposes of considering whether to approve the 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).)

13. The State Water Board has considered the final IS/ND in deciding whether to approve the Project. The final IS/ND considers the potential impacts of the Project and potential cumulative impacts of all existing and known proposed projects that have the potential to result in reduced flows to the Los Angeles River. The flow impacts are evaluated in the final IS/ND and it is determined there will be no significant impact to fish, wildlife, or the environment. The State Water Board will issue a NOD within five days of the date of this order.
14. The City of Los Angeles sent a letter dated November 17, 2017 to the Division indicating that despite efforts to resolve the protest, resolution could not be reached and they still maintained their protest of the wastewater change petitions WW0019 and WW0091. The State Water Board sent a letter dated February 2, 2018 to the City of Los Angeles requesting additional information by March 5, 2018 to substantiate the protest allegations in light of the environmental analysis completed for the Project, or the protest would be cancelled. The City of Los Angeles did not submit a response. Therefore, the State Water Board cancels the protest by the City of Los Angeles pursuant to Water Code section 1703.6, subdivision (a).
15. In addition to any obligation the State Water Board may have under CEQA, the Board has an independent obligation to consider the effect of the Project 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].) No adverse impacts to public trust resources are expected.
16. 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. Burbank's Project, as proposed in the petitions, is consistent with the purpose and will help California meet the goals of the Recycled Water Policy.
17. 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 the Division of Water Rights, and the Deputy Director for the Division of Water Rights has redelegated the authority.

ORDER

NOW, THEREFORE, IT IS ORDERED THAT:

1. The protest of the City of Los Angeles is cancelled.
2. The point of discharge is unchanged and is located at North 1,889,101 feet and East 6,465,491 feet by California Coordinate System NAD 1983, Zone 5, being within NW ¼ of SE ¼ of projected Section 11, T1N, R14W, SBB&M.
3. The request to change the place of use of treated wastewater is approved. The place of use for treated wastewater produced by Burbank under both WW0019 and WW0091 is within the service areas of the City of Burbank and portions of the City of Los Angeles as shown on the Place of Use map filed with the State Water Board and attached.

4. The quantity of discharge of treated wastewater from the Burbank WRP to the Burbank Western Channel may be reduced by a maximum monthly rate of up to 2.97 mgd, for a total annual reduction of 1,610 afy, from January 1 to December 31 of each year. This reduction is in addition to the 647 afy flow reduction authorized in the 1993 Order Approving Change in Place of Use and Purpose of Use of Treated Wastewater.
5. The purpose of use for treated wastewater produced by Burbank is irrigation and industrial.
6. Burbank 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/or operation of the Project. Copies of such permits and approvals shall be forwarded to the Deputy Director for the Division of Water Rights.
7. Burbank 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 State Water Board reserves continuing jurisdiction in the public interest to implement and amend this order for conformity with instream flow requirements that may be established for the Los Angeles River in the future, and in the event of unforeseen adverse impacts to fish and wildlife resources and other instream beneficial uses. Modifications to this order shall only be made after notice and opportunity for a hearing.
9. Burbank shall file an annual report with the Deputy Director for the Division of Water Rights by April 30 of each year that includes at minimum the following information for the previous calendar year: monthly amount of inflow to the Burbank WRP, monthly discharges to the Burbank Western Channel, maximum daily recycled water delivery rate in mgd, and monthly total recycled water deliveries.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:
JULE RIZZARDO, FOR

*Erik Ekdahl, Deputy Director
Division of Water Rights*

Dated: APR 20 2018