

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

DIVISION OF WATER RIGHTS

In the Matter of Wastewater Petition WW0098

Sanitation Districts of Los Angeles County

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

SOURCE: Rio Hondo and San Gabriel River

COUNTY: Los Angeles

WHEREAS:

1. On January 11, 2017, the Sanitation Districts of Los Angeles County (Sanitation Districts) filed Wastewater Change Petition WW0098 with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division), pursuant to Water Code section 1211. The petition seeks to change the place of use, purpose of use and quantity of treated wastewater currently discharged to the Rio Hondo and the San Gabriel River.
2. Water Code section 1211 requires the owner of a wastewater treatment plant to obtain approval from the State Water Board prior to making any change in the point of discharge, place of use, or purpose of use of treated wastewater where changes in the discharge or use of treated wastewater result in decreasing the flow in any portion of a watercourse.
3. The Sanitation Districts' Whittier Narrows Water Reclamation Plant (WNWRP) is a wastewater treatment facility in the City of El Monte. The WNWRP generates approximately 7 to 8 million gallons per day (mgd) of tertiary treated effluent, some of which is reused, with approximately 6.12 mgd (10-year daily average from 2007 to 2016) being discharged under National Pollutant Discharge Elimination System (NPDES) permit to the Rio Hondo and the San Gabriel River. The WNWRP is currently using three discharge points: WN001, WN002, and WN004. WN001 discharges to the San Gabriel River (where it may commingle with discharge from San Jose Creek WRP and Pomona WRP) and has a 10-year daily average flow of 1.61 mgd (26.3 percent). WN002 discharges to the lined Zone 1 Ditch from the same outfall leading to the San Gabriel River (which flows to the Rio Hondo downstream of WN004) and has a 10-year daily average flow of 0.76 mgd (12.4 percent). WN004 discharges to the Rio Hondo and has a 10-year daily average flow of 3.74 mgd (61.1 percent). The flow is alternated between the three points during the year for operational reasons. The discharged recycled water flow to all three discharge points is normally used for groundwater recharge at either the Rio Hondo or San Gabriel Coastal Spreading Grounds.
4. Discharge of treated wastewater from the WNWRP for recycled use, primarily irrigation purposes, is currently authorized by the Los Angeles Regional Water Quality Control Board (Los Angeles Regional Water Board) under Order. No. WQ 2016-0068-RB4-CI-6844.
5. Discharge of treated wastewater from the WNWRP to the Rio Hondo and the San Gabriel River is currently authorized by the Los Angeles Regional Water Board under Order No. R4-2014-0213-A01, NPDES Permit No. CA0053716.

6. For the purposes of this Order, the State Water Board considers the following information as the Sanitation Districts' existing points of discharge, place of use, and purpose of use of treated wastewater:
 - a. The points of discharge are the following: Whittier Narrows Water Reclamation Plant discharge points at California Coordinate System, NAD 83, Zone 5: 1) Discharge Point WN001: North 1,830,676 feet and East 6,544,916.4 feet, being within the NE¼ of SE¼ of Section 5, T2S, R11W; 2) Discharge Point WN002: North 1,832,395 feet and East 6,543,991.5 feet, being within the SE¼ of NW¼ of Section 5, T2S, R11W; and 3) Discharge Point WN004: North 1,834,318.2 feet and East 6,540,121.2 feet, being with the NW¼ of NE¼ of Section 6, T2S, R11W, SBB&M;
 - b. There is no current place of use; and,
 - c. There is no current purpose of use.
7. The Sanitation Districts propose to reduce WNWWRP discharges to discharge points Nos. WN001, WN002, and WN004 by approximately 1.1 percent (approximately 0.06 mgd or 72 afy) of the present 6.12 mgd discharge. Approximately 27 percent of the 72 afy would be reduced from the San Gabriel River discharges and 73 percent from the Rio Hondo watershed. This reduced flow would be directed to the San Gabriel Valley Water Company and a new South El Monte Extension of the Upper San Gabriel Valley Municipal Water District's recycled water system for non-potable uses, including application on landscaping and lawns.
8. On June 9, 2017, the Division issued a public notice of the petition in accordance with Water Code section 1703. On July 20, 2017, the Division received a protest from the California Department of Fish and Wildlife (CDFW). The basis of the protest was potential adverse environmental impacts and conservation of public trust resources.

The protest submitted by CDFW alleges that reduction in surface flow has the potential for harm to fish and wildlife resources and their Rio Hondo and San Gabriel River habitats. CDFW's letter dated May 30, 2018 recommended inclusion of certain conditions to protect fish and wildlife resources as enforceable terms in any order approving the petition to resolve the protest. Several subsequent meetings occurred between staff from Sanitation Districts and CDFW to discuss protest resolution.

Given CDFW's concerns regarding cumulative impacts to fish and wildlife resources in the San Gabriel River associated with this petition, and other related petitions, CDFW encourages the Sanitation Districts to establish a working group, including CDFW, to develop appropriate study plans to analyze the baseline conditions prior to any reductions within the San Gabriel River. The development of baseline conditions will aid the Sanitation Districts in formulating measures to mitigate and monitor its proposed project through participation in a Mitigation and Adaptive Management Program (AMP) of the Lower San Gabriel River.

CDFW stated in its May 30, 2018 letter that it is supportive of the development of the Lower San Gabriel River AMP and considers the AMP an appropriate mechanism through which to analyze, mitigate, and monitor this project. CDFW is currently working with the Sanitation Districts and has been integrally involved in the review and development of mitigation and monitoring strategies. The Sanitation Districts are committed to continuing these efforts.

After considering the Negative Declaration which analyzed the impacts of the wastewater reduction (mentioned in Item 10 below) and the Sanitation Districts' commitment of working with CDFW on the AMP and baseline assessments for the San Gabriel River, CDFW has concluded that the Sanitation Districts have met the terms and conditions as outlined in CDFW's May 30, 2018 letter. On October 15, 2018, the Division received a letter from CDFW withdrawing their protest with no conditions.

9. The State Water Board has reviewed the petition, protest, and the whole record. Water discharged from the WNW RP is foreign water, and as such, return flow is not part of the natural stream flow to which riparian and appropriative water rights may attach. The State Water Board finds that the petition for change in the place of use, purpose of use and quantity of discharge to a watercourse will not cause injury to any other lawful user of the water.
10. Under the California Environmental Quality Act (CEQA), the Sanitation Districts are the lead agency for preparation of environmental documentation for this project. In July 2018 the Sanitation Districts prepared an Initial Study and Negative Declaration (IS/ND) entitled Whittier Narrows Water Reclamation Plant Diversion. On September 28, 2018, the Sanitation Districts filed a Notice of Determination (NOD) for the Whittier Narrows Water Reclamation Plant Diversion with the State Clearinghouse (SCH No. 2018071073). The State Water Board is a CEQA responsible agency for purposes of considering whether to approve the petition that will allow the Sanitation Districts 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).)
11. The State Water Board has considered the IS/ND in deciding whether to approve the petition. The IS/ND considers the potential impacts of reduced flows to the Rio Hondo and the San Gabriel River. The flow impacts are evaluated in the IS/ND and it is determined that 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.
12. 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 change on public trust resources and to protect those resources where feasible, and to balance any adverse public trust effects against the benefits of the project. (*National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419 [189 Cal.Rptr. 346].) Here, the proposed project will reduce discharge to its discharge points by approximately 1.1 percent (approximately 0.06 mgd or 72 afy) of the present 6.12 mgd discharge. No adverse impacts to public trust resources are expected.
13. The State Water Board has a Policy for Water Quality Control for Recycled Water (Recycled Water Policy), originally adopted on February 23, 2009 and amended on January 22, 2013 and December 11, 2018. 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 Sanitation Districts' 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.
14. 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. 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 California Department of Fish and Wildlife (CDFW) is withdrawn.
2. The points of discharge are unchanged and are located as follows. The Whittier Narrows Water Reclamation Plant (WNWRP) discharge points at California Coordinate System, NAD 83, Zone 5:
1) Discharge Point WN001: North 1,830,676 feet and East 6,544,916.4 feet, being within the NE¼ of

SE¼ of Section 5, T2S, R11W; 2) Discharge Point WN002: North 1,832,395 feet and East 6,543,991.5 feet, being within the SE¼ of NW¼ of Section 5, T2S, R11W; and 3) Discharge Point WN004: North 1,834,318.2 feet and East 6,540,121.2 feet, being with the NW¼ of NE¼ of Section 6, T2S, R11W, SBB&M.

3. The request to change the place of use is approved. The place of use for treated wastewater produced by the WNWRP is within the San Gabriel Valley Water Company service area, as shown on a map dated March 3, 2017 filed with the State Water Board.
4. The request to change the purpose of use is approved. The purposes of use for treated wastewater produced by the WNWRP are Municipal and Irrigation.
5. The quantity of discharge of treated wastewater from the WNWRP to the Rio Hondo and the San Gabriel River may be reduced by a rate of approximately 0.06 mgd or 72 afy, from January 1 to December 31 of each year.
6. The Sanitation Districts of Los Angeles County (Sanitation Districts) shall obtain all necessary federal (including Clean Water Act section 404), state and local agency permits, and approvals required by other agencies prior to operation of the project. Copies of such permits and approvals shall be forwarded to the Deputy Director for the Division of Water Rights.
7. The Sanitation Districts are responsible for compliance with any applicable waste discharge or water recycling requirements issued by the Los Angeles Regional Water Board or the State Water Board.
8. The State Water Board reserves jurisdiction in the public interest to implement and amend this Order for conformity with instream flow requirements that may be established for the Rio Hondo and the San Gabriel 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. The Sanitation Districts shall file an annual report with the Deputy Director for the Division of Water Rights by March 31 of each year following the year of order issuance that includes at minimum the following information for the previous calendar year: monthly amount of inflow to the WNWRP, monthly discharges to the Rio Hondo and the San Gabriel River, 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: DEC 28 2018