

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

**DIVISION OF WATER RIGHTS**

**ORDER WR 2009-0009-DWR**

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In the Matter of Wastewater Petition WW-50  
Delta Diablo Sanitation District

**ORDER APPROVING CHANGE IN PLACE OF USE  
AND PURPOSE OF USE  
OF TREATED WASTEWATER EFFLUENT**

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SOURCE: New York Slough tributary to Suisun Bay  
COUNTY: Contra Costa

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**WHEREAS:**

1. Treated Wastewater Change Petition WW-50 was filed by Delta Diablo Sanitation District (District) with the State Water Resources Control Board (State Water Board) on August 21, 2008, pursuant to section 1211 of the Water Code. The District seeks to change the place of use and purpose of use of treated wastewater to use up to 0.80 cubic foot per second (cfs) (0.5 million gallons per day) for irrigation. Water will be used to irrigate 120 acres in the City of Antioch.
2. Public notice of the change was issued on November 24, 2008, and no protests were received.
3. The State Water Board has determined that the petition for change in the place of use and purpose of use will not cause injury to any other lawful user of water.
4. The District issued an Initial Study and Mitigated Negative Declaration (MND) titled Antioch Recycled Water Project, SCH #2006072093 on January 10, 2007, and filed a Notice of Determination (NOD) with the Office of Planning and Research on January 18, 2007. The mitigation measures identified in the MND that are associated with the change petition and also subject to the jurisdiction of the State Water Board are listed in conditions 3 and 4 of the Order section. The State Water Board will issue an NOD within 5 days of the date of this order.

In addition to the mitigation measures listed in conditions 3 and 4 of the Order section, the MND included mitigation measures that are not incorporated in the order. These mitigation measures relate to geotechnical review for a proposed water storage tank, hazards and hazardous materials, landscape irrigation using treated wastewater, construction noise measures, dust abatement, minimizing impacts to recreation facilities during construction, obtaining road encroachment permits and implementing a traffic control plan. These measures are outside of the jurisdiction of the State Water Board. The District also included a mitigation measure related to cultural resources, which is the responsibility of the lead agency under the California Environmental Quality Act.

5. Fish, wildlife, and plant species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act. A condition should be placed in the order making the District aware of possible obligations resulting from these acts.

## ORDER

### NOW, THEREFORE, IT IS ORDERED THAT:

1. The District is authorized to change the place of use and purpose of use of 0.8 cfs, with a limit of 580 acre-feet per annum, of treated wastewater effluent discharged from the Water Pollution Control Facility. The present point of discharge by California Coordinate system, NAD 83, Zone 3 is North 2,198,171 feet and East 6,176,155 feet, being within Section 13, T2N, R2E, MDB&M.

Water will be used for irrigation on 120 acres within the City of Antioch at the Antioch City Park, Fairview Park, Mountaire Park, Chichibu Park and Lone Tree Golf Course within Sections 23, 24, 25, and 36, all within T2N, R1E, MDB&M, and Section 30, T2N, R2E, MDB&M as shown on MND, Figure 2, Project Area Map and Figure 3, Project Location and Archaeological Survey Area Map. The authorized diversion season is January 1 through December 31 of each year.

2. The District shall comply with the following Endangered Species condition:

This change does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this order, the petitioner shall obtain authorization for an incidental take prior to construction or operation of the project. Petitioner shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this order.

(000014)

3. In order to avoid or minimize impacts to biological resources, the District shall do the following:

If possible, ground-disturbance activities (such as trenching) should begin before March 15 and should occur continuously throughout the construction period or at least through the nesting season (August 15) to prevent bird species from establishing nests within the work area. If construction occurs between March 15 and August 15, the District should implement the following elements prior to the bird nesting season and the start of ground-disturbing construction:

A qualified wildlife biologist shall conduct pre-construction surveys of all potential nesting habitat within 100 feet of construction activities. If active nests are found during pre-construction surveys, a 100-foot buffer zone will be created around nests of sensitive birds protected by the Migratory Bird Treaty Act or special status birds. If pre-construction surveys indicate that nests are inactive or potential habitat is unoccupied during the construction period, no further mitigation will be required.

(0400500)

Conduct all excavation and construction activities associated with installation of the pipeline and underground water storage tank in the vicinity of the Lone Tree Golf Course during July through October, when California tiger salamander (*Ambystoma californiense*) and California red-legged frog (*Rana aurora draytonii*) are less active and unlikely to be migrating through the work areas. If all work cannot occur during this timeframe, then silt fencing must be erected around all active work areas (excavated areas, soil stockpiles, equipment and vehicle staging areas) prior to any ground disturbance or staging activities to prevent California tiger salamander and California red-legged frog from entering the active work area. The work areas shall be checked by a qualified biologist at the beginning of each work day to ensure proper function of the fence and to locate any California tiger salamander or California red-legged frog that have entered the work area; if any are found, they shall be relocated outside the work area and into suitable nearby habitat prior to commencement of construction activities by a biologist possessing a valid U.S. Fish and Wildlife Service (USFWS) recovery permit to handle these species. A summary of monitoring and relocation activities shall be submitted to USFWS within 30 days of the finalization of construction activities and/or the end of the required fencing and monitoring period (through June).

(0400500)

4. In order to avoid or mitigate for impacts to water quality, the District shall do the following:

Require contractors to implement Best Management Practices (BMPs) for construction/post-construction activities as specified by the California Storm Water Best Management Practices Handbook (California Storm Water Quality Association, 2003) and/or the Manual of Standards for Erosion and Sediment Control Measures (ABAG, 1995). The BMPs include measures guiding the management and operation of construction sites to control and minimize the potential contribution of pollutants to storm runoff from these areas. These measures address procedures for controlling erosion and sedimentation and managing all aspects of the construction process to ensure control of potential water pollution sources. Erosion and sedimentation control practices typically include:

- Limiting construction to the dry-weather months
- Installation of silt fencing and/or straw wattle
- Soil stabilization
- Revegetate graded and fill areas with a standard erosion control mix (approved by a native habitat Restorationist)
- Runoff control to limit increases in sediment in storm water runoff (e.g., straw bales, silt fences, check dams, geofabrics, drainage swales, and sand bag dikes)
- Equipment maintenance shall be performed at least 100 feet from all water bodies and wetlands, with measures in place to contain spills of diesel fuel, gasoline, or other petroleum products. Drainage from all work sites shall be directed away from any water bodies or wetlands where feasible.
- Prevent erosion of uplands and sedimentation of creeks, tributaries and ponds
- Minimize creek bank instability
- Prevent flooding
- Return grades to preconstructed contours.

The petitioner shall develop a Stormwater Pollution Prevention Plan incorporating standard BMPs such as those listed above for conserving water quality of receiving waters during construction. In addition, the petitioner shall comply with Regional Water Quality Control Board regulations and standards to maintain and improve the quality of both surface water and groundwater.

(0000210)

5. To ensure that required mitigation measures are implemented, the following condition applies:

The District is not authorized to divert water pursuant to this order until all construction related conditions are complied with. The District shall submit documentation within one year of issuance of this order and on a triennial basis thereafter, of compliance with order requirements. Said documentation shall include a description of the mitigation measures employed for each order condition and date of compliance with the mitigation measures. The District is not required to continue submitting construction compliance reports once full compliance with all construction related conditions is achieved.

(0000063)

STATE WATER RESOURCES CONTROL BOARD

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Deputy Director for Water Rights

Dated: **FEB 09 2009**