

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

DIVISION OF WATER RIGHTS

In the Matter of Wastewater Change Petition WW0088
City of Turlock

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

SOURCE: San Joaquin River

COUNTY: Stanislaus

WHEREAS:

1. The City of Turlock (Turlock) filed Wastewater Change Petition WW0088 with the State Water Resources Control Board (State Water Board) on August 14, 2015, pursuant to Water Code section 1211. The petition seeks to change the point of discharge, purpose of use, and place of use of treated wastewater discharged into the San Joaquin River.
2. Turlock proposes a change in wastewater operations that would eliminate the current discharge of treated wastewater generated by Turlock's Wastewater Treatment Plant (WWTP) and convey, via pipeline and the Delta Mendota Canal (DMC), up to 26,904 acre-feet per annum (afa) of current and future treated wastewater to Del Puerto Water District (DPWD) and several Central Valley Project Improvement Act (CVPIA) – Designated Refuges south of the Delta.

For the purposes of this Order, the State Water Board considers the following information as Turlock's existing point of discharge, place of use and purpose of use of treated wastewater:

- a. The point of discharge to the San Joaquin River is as follows: California Coordinate System (CCS) NAD83, Zone 3, North 1,991,447 feet and East 6,407,050 feet, being within NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 36, T5S, R8E, MDB&M.
- b. The place of use for treated wastewater that is not discharged to the San Joaquin River is at the Turlock Irrigation District (TID) Walnut Energy Center for industrial use and 20 irrigated acres at the Pedretti Sports Complex.
- c. The purpose of use is irrigation and industrial use.

Turlock's treated wastewater discharge to the San Joaquin River is regulated pursuant to the Central Valley Regional Water Quality Control Board Waste Discharge Requirements Order R5-2015-0027 and National Pollutant Discharge Elimination System Permit No. CA0078948 for a design average dry weather flow of 20 million gallons per day (mgd). The WWTP currently discharges to the San Joaquin River at an average monthly rate of 8.5 mgd (9,525 afa) based on the WWTP's discharge records from 2000 to 2012. Turlock also uses approximately 2 mgd of its treated wastewater for industrial use at the TID Walnut Energy

Center and for landscape irrigation use at the City's Pedretti Sports Complex. Turlock anticipates producing approximately 26,904 afa of treated wastewater by 2030 based on projected long-term population growth.

Turlock's recycled water project is developed as part of the North Valley Regional Recycled Water Program (NVRWP) which is established in partnership with the City of Modesto (Modesto) and DPWD to address water supply shortages within DPWD's service area. The NVRWP will also provide water to CVPIA-Designated Refuges for fish and wildlife preservation and enhancement purpose. Recycled water from Turlock and Modesto will be conveyed to the DMC, and from the DMC, water would be provided to DPWD and to refuges through turnouts from the DMC. During low water demand periods, the treated wastewater will be transported to the San Luis Reservoir for storage.

The proposed place of use for this treated wastewater is 43,259 irrigated acres within DPWD's service area and 124,897 acres of CVPIA Designated Refuges, in addition to Turlock's existing place of use.

3. Public notice of the change petition was issued on October 9, 2015. Protests were received from the Bureau of Reclamation (Reclamation), the State Water Contractors (SWC), Banta-Carbona Irrigation District (BCID), West Stanislaus Irrigation District (WSID), and Mr. Richard Morat. WSID withdrew their protest on November 11, 2015.
4. Reclamation protested against Turlock's change petition concerning the multi-year Warrant Act contract between the DPWD and Reclamation. Reclamation provided a dismissal term as follows:

Turlock shall ensure that DPWD has executed any required Warrant Act contracts with Reclamation prior to the introduction of water into the DMC under this Order for delivery to DPWD. Turlock shall provide confirmation from Reclamation and DPWD to the Deputy Director for Water Rights (email confirmation is acceptable) that this condition has been complied with, within 30 days of execution of the Warren Act contract.

On February 17, 2016, Turlock responded to Reclamation's protest indicating Turlock did not object to the dismissal term Reclamation requested. Reclamation's protest is thereby dismissed.

5. BCID protested against Turlock's change petition on the basis that the proposed change would injure its water rights. On March 13, 2016, BCID, Turlock, and DPWD reached a settlement agreement on protest dismissal terms. BCID agrees to dismiss its protest if the State Water Board references the settlement agreement in its final action. A condition has been included in this Order to ensure that Turlock recognizes and abides by the March 13 settlement agreement. BCID's protest is thereby dismissed.
6. Mr. Richard Morat protested against Turlock's change petition concerning that the proposed change would cause adverse environmental impacts. On February 8, 2016, Turlock responded to Mr. Morat's protest and stated that the protest was based on general allegations but contained no evidence that removal of Turlock's treated wastewater from the San Joaquin River would result in an adverse environmental impact. On March 2, 2016, the Division requested Mr. Morat to submit substantial evidence supporting the basis of his objections. On March 30, 2016, the Division received a letter from Mr. Morat indicating that he "has no new information to offer" in support of his allegations. Pursuant to Water Code section 1703.6, the Division issued a letter canceling Mr. Morat's protest on May 2, 2016.

7. SWC protested against Turlock's change petition on the basis that the proposed change would cause potential adverse impacts to the water quality of the State Water Project drinking water supplies. On August 24, 2016, SWC notified the State Water Board that SWC had reached a settlement agreement with Turlock and SWC's protest on Turlock's change petition was thereby withdrawn.
8. The State Water Board has determined that the petition for change in the point of discharge, purpose of use, and place of use will not cause injury to any other lawful user of water.
9. Under the California Environmental Quality Act (CEQA), Modesto is the lead agency for preparation of environmental documentation for the project. On January 8, 2015, Modesto released the Draft EIR titled North Valley Regional Recycled Water Program (SCH No. 2014042068). On July 7, 2015, Modesto issued a final EIR for the NVRWP. On July 13, 2015, Modesto issued a Notice of Determination (NOD) for the project. Turlock is a responsible agency for the NVRWP. On September 20, 2016, Turlock filed an NOD with the State Clearing House for the project.
10. The State Water Board is a CEQA responsible agency for purposes of considering whether to approve the wastewater change petition that will allow Turlock 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 EIR in deciding whether to approve the petition. The State Water Board finds that there is no evidence that approval of the wastewater change petition, with Modesto and Turlock implementing mitigation measures from the EIR to minimize impacts to biological and water resources, will have any adverse impacts on water resources within the State Water Board's purview for the petition. The State Water Board finds that changes or mitigation measures have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effects as identified in the final EIR. The changes or mitigation measures are within the responsibility of Modesto and Turlock, not the State Water Board, and have been adopted. Mitigation monitoring for this Project, identified in the "Mitigation Monitoring and Reporting Plan" (included as Appendix J of the final EIR) and in Turlock's "Mitigation Monitoring and Reporting Plan" submitted on October 26, 2016, require reporting to agencies other than the State Water Board. The State Water Board will issue an NOD within five days of the date of this order.

11. 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 proposed 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].) The mitigation measures in the EIR minimize impacts to water resources and biological resources and no adverse impacts to public trust resources are expected.
12. Although Turlock anticipates producing approximately 26,904 afa of treated wastewater and proposes to deliver the full amount to DPWD and the CVPIA refuges at full build out of its WWTP in 2030, approval of this wastewater change petition is limited to the WWTP's historical discharge to the San Joaquin River.

ORDER

NOW, THEREFORE, IT IS ORDERED THAT:

1. Turlock is authorized to change the point of discharge, the purpose of use, and the place of use of treated wastewater effluent that would otherwise have been discharged from the WWTP to the San Joaquin River from January 1 to December 31 of each year. Turlock may eliminate the WWTP effluent discharged into the San Joaquin River at an average monthly rate of 8.5 mgd (9,525 afa).
2. The wastewater discharge may occur at a new point of discharge at the DMC intake near Zacharias Road located within CCS, NAD83, Zone 3, North 2,002,798 feet and East 6,360,310 feet, being within NW¼ of NW¼ of Section 22, T5S, R7E, MDB&M. Turlock, upon compliance with all NPDES permit requirements, may discharge tertiary treated wastewater on an as-needed basis to its existing point of discharge located at CCS, NAD83, Zone 3, North 1,991,447 feet and East 6,407,050 feet, being within NE¼ of NE¼ of Section 36, T5S, R8E, MDB&M.
3. The place of use is changed to include 43,259 irrigated acres within DPWD's service area and 124,897 acres of the CVPIA refuges, in addition to Turlock's existing use at the TID Walnut Energy Center and 20 acres at the Pedretti Sports Complex, as shown on the project map on file with the State Water Board.
4. The purpose of use is for irrigation, industrial use, and fish and wildlife preservation and enhancement purposes.
5. During low water demand periods, the treated wastewater may be stored in the San Luis Reservoir for later use.
6. Turlock shall ensure that DPWD has executed any required Warrant Act contracts with Reclamation prior to the introduction of water into the DMC under this Order for delivery to DPWD. Turlock shall provide confirmation from Reclamation and DPWD to the Deputy Director for Water Rights (email confirmation is acceptable) that this condition has been complied with, within 30 days of execution of the Warren Act contract.
7. Turlock shall recognize and abide by the protest settlement agreement executed between and among BCID, DPWD and Turlock on March 13, 2016. Turlock shall not object or otherwise interfere with DPWD's provision of settlement water by DPWD to BCID pursuant to the March 13, 2016 protest settlement agreement.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:
JOHN O'HAGAN, FOR

Leslie F. Grober, Deputy Director
Division of Water Rights

Dated: JAN 04 2017