

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

**DIVISION OF WATER RIGHTS**

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In the Matter of Wastewater Petition WW0103

**City of El Paso de Robles**

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

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SOURCE: Salinas River

COUNTY: San Luis Obispo

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**WHEREAS:**

1. On May 13, 2019, the City of El Paso de Robles (City) filed Wastewater Change Petition WW0103 with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division), pursuant to Water Code section 1210 et seq as part of its Recycled Water Distribution System Project (Project). 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.

With the petition, the City seeks to change the point of discharge, purpose of use, and place of use of treated wastewater discharged to the Salinas River from January 1 to December 31 of each year. Wastewater currently discharged to the Salinas River from the City's Wastewater Treatment Plant (WWTP) would be reduced and redirected for irrigation use within the City and San Luis Obispo County. In addition, the treated wastewater would be redirected for discharge to Huer Huero Creek, which is tributary to the Salinas River.

Rate and Amount of Discharge:

Present: An average rate of discharge of 2.2 million gallons per day (MGD) to the Salinas River from January 1 to December 31 of each year.

Proposed: A reduction of up to 1.9 MGD to the Salinas River from July 1 to August 31, and a reduction of up to 1.8 MGD from September 1 to June 30, with a maximum annual limit of 1,935 acre-feet per year (afy).

2. The City constructed tertiary treatment facilities (filtration and ultraviolet light disinfection) at the WWTP and is preparing to construct a recycled water distribution system. These facilities will enable the City to use the treated wastewater for irrigation within the inner and outer City limits, in combination with discharge to the Salinas River and Huer Huero Creek. The Project-related use of treated wastewater for irrigation is proposed to restore balance to the Paso Robles Area Groundwater Subbasin and help comply with the Sustainable Groundwater Management Act.
3. Discharge of treated wastewater from the City's WWTP is regulated pursuant to the National Pollutant Discharge Elimination System (NPDES) Permit No. CA0047953, Waste Discharge Requirements (WDR) Order No. R3-2011-0002, adopted by the Central Coast Regional Water Quality Control Board on May 5, 2011. The City's WWTP has a design average dry weather flow treatment capacity of 4.9 MGD and a peak flow treatment capacity of up to 10 MGD.
4. For the purposes of this Order, the State Water Board considered the following information as the City's existing point of discharge, place of use, and purpose of use of treated wastewater:
  - a. The existing point of discharge on the Salinas River is located by California Coordinate System of 1983, Zone 5, North 2,433,666 feet and East 5,763,521 feet, being within NE $\frac{1}{4}$  of SW $\frac{1}{4}$  of projected Section 21, T26S, R12E, MDB&M;
  - b. There is no current place of use; and,
  - c. There is no current purpose of use.
5. The Division issued public notice of the wastewater change petition on August 3, 2020. A protest was timely received from the California Department of Fish and Wildlife (CDFW).
6. By letter dated September 2, 2020, CDFW protested the City's petition based on potential adverse environmental impacts and conservation of public trust resources. CDFW alleged that the reduction in surface flow has the potential to impact fish and wildlife resources on the Salinas River and its associated riparian habitats. Furthermore, CDFW stated that the City lacks specific information regarding minimum flows and mitigation. As such, CDFW requested the City to provide additional information, documentation, and studies to allow CDFW to determine appropriate terms and conditions to protect fish and wildlife resources for protest dismissal.

7. Following protest dismissal negotiations between the City and CDFW, on September 30, 2020, the City provided the Division with protest dismissal terms and conditions that the City believed resolved the protests of CDFW. On October 23, 2020, CDFW confirmed by letter that their protest could be considered resolved with inclusion of the protest dismissal conditions in any order approving the City's petition. The letter specified CDFW's protest dismissal conditions and those conditions are included in this Order, with minor modifications.
8. Under the California Environmental Quality Act (CEQA), the City is the lead agency for preparation of environmental documentation for this project. On June 2018, the City issued a final Mitigated Negative Declaration (MND) titled City of Paso Robles Recycled Water Distribution System Project (State Clearinghouse No. 2018051033). On August 2018, the City issued a Notice of Determination (NOD) for the project.
9. The State Water Board is a CEQA responsible agency for purposes of considering whether to approve the petition allowing 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 must 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 documents and concluded that approval of the wastewater change petition will not have significant impacts on resources within the State Water Board's purview. The State Water Board will issue a NOD within five days of the date of this order.
10. 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].) The mitigation measures in the MND minimize impacts to biological and cultural resources and no adverse impacts to public trust resources are expected.
11. The State Water Board has reviewed the petition, protest, and the whole record, including all associated CEQA documents for the Project. The State Water Board finds that the petition for change in the point of discharge, 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.
12. 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 afy by

2020, and by at least two million afy by 2030. The City's 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.

13. 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 that authority.

## **ORDER**

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

1. With the inclusion of conditions 6, 7, 8, and 9, the protest of the California Department of Fish and Wildlife (CDFW) is dismissed.
2. The City of El Paso de Robles (City) is authorized to reduce the discharge of treated wastewater from the City's Wastewater Treatment Plant (WWTP) to the Salinas River by up to an average of 1.9 million gallons per day (MGD) from July 1 to August 31 of each year, and a reduction of up to an average of 1.8 MGD from September 1 to June 30 of the succeeding year, with a maximum annual limit of 1,935 acre-feet per year.
3. The authorized place of use is within the City's and San Luis Obispo County's gross 11,120 acres and 20,440 acres, respectively, all being within T25S-27S, R12E and R13E, MDB&M. The place of use is shown on map dated, February 24, 2020 on file with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division).
4. The authorized purpose of use for the treated wastewater is irrigation.
5. The reduced amount of treated wastewater may be discharged at the new points of discharge on Huer Huero Creek, tributary to the Salinas River as follows:
  - a. California Coordinate System of 1983 (CCS83), Zone 5, North 2,435,837 feet and East 5,776,604 feet, being within NE $\frac{1}{4}$  of NE $\frac{1}{4}$  of projected Section 23, T26S, R12E, MDB&M;
  - b. CCS83, Zone 5, North 2,430,277 feet and East 5,776,150 feet, being within NE $\frac{1}{4}$  of NE $\frac{1}{4}$  of projected Section 26, T26S, R12E, MDB&M
6. Prior to operation of the project, the City shall consult with CDFW to determine whether any project-related activities will require notification pursuant to Fish and Game Code section 1602; and if necessary, obtain a Streambed Alteration

Agreement for any jurisdictional activities related to the discharge reduction in the Salinas River and discharge to Huer Huero Creek. In addition, the City shall obtain any and 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.

7. Prior to reduction of discharge, the City shall implement the following:
  - a. Update the Technical Memorandum Evaluation of Proposed Reductions to the Salinas River (Tech Memo) and the Conceptual Monitoring Plan of the Salinas River (Monitoring Plan) to address concerns stated on pages 5-7 of CDFW's protest letter dated September 2, 2020;
  - b. Prepare an Adaptive Management Plan (AMP), in collaboration with CDFW, which includes performance standards and response strategies to address any unanticipated significant impacts that may be identified by monitoring; and
  - c. Conduct a minimum of two full years of baseline river monitoring.

The Monitoring Plan and AMP must include, at a minimum, the following:

- a. Criteria and performance standards for the ongoing monitoring of riparian habitat for signs of stress to vegetation due to decreased groundwater levels, and efforts to mitigate for habitat impacts.
- b. A minimum two-year pre-Project baseline assessment of the flora and fauna within, adjacent to, and downstream of the discharge point to the Salinas River, and address CDFW's concerns regarding habitat impacts.
- c. Address losses of habitat caused by Project-related deviation in groundwater levels, as documented through regular monitoring, and describe remediation efforts that will be undertaken to replace vegetation or restore habitats that may be impacted.
- d. Reporting of monitoring and all mitigation efforts to be submitted to CDFW and the Division annually by December 31.

The final Tech Memo, Monitoring Plan, and AMP are subject to review and approval by CDFW and shall be submitted to the Deputy Director for the Division.

8. If unforeseen problems arise that cause significant adverse impacts to fish and wildlife resources, or as monitoring data is analyzed, this order may be modified to

address the adverse impacts, including impacts identified by CDFW. 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 Salinas 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. This approval order does not authorize any act which results in the taking of a threatened, endangered, or candidate species or any act which is now prohibited, or becomes prohibited in the future, under either CESA (Fish and Game Code Section 2050 et seq.) or FESA (16.U.S.C.A. Section 1531 et seq.). If a “take” may result from any act authorized under this order, the City shall obtain authorization for such incidental take prior to construction or operation of the project. The City shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this order.
10. The City is responsible for compliance with any applicable waste discharge or water recycling requirements issued by the Central Coast Regional Water Quality Control Board (Regional Board) or the State Water Board.
11. The City shall file an annual report with the Deputy Director for the Division by April 1 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 WWTP;
  - daily discharge rate to Huer Huero Creek, and/or the Salinas River in million gallons per day (MGD);
  - daily recycled water delivery rate in MGD; and,
  - monthly total recycled water deliveries.

If identical information is already reported annually to the Regional Board or State Water Board under the requirements of the Recycled Water Policy, the City may annually notify the Deputy Director for the Division of the submittal and where the information may be found in lieu of filing a redundant annual report under this term.

#### STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:  
SAM BOLAND-BRIEN FOR,

*Erik Ekdahl, Deputy Director  
Division of Water Rights*

Dated: JAN 28 2021