

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
COLORADO RIVER BASIN REGION**

**RESOLUTION NO. R7-2018-0024
SUPPORTING IMPERIAL COUNTY'S EFFORTS TO
PROVIDE FOR ADEQUATE SEWERAGE SERVICE
FOR NILAND, CALIFORNIA AND
RECOMMENDING PRIORITY FUNDING FOR
NILAND WASTEWATER TREATMENT FACILITY**

WHEREAS, The California Regional Water Quality Control Board, Colorado River Basin Region (hereinafter, Regional Water Board) finds that:

1. Niland Sanitary District (NSD or Discharger) provides sewerage service to Niland, a small unincorporated community with a financial hardship as defined by Water Code section 13385, subdivision (k)(2). NSD owns and operates a wastewater collection, treatment, and disposal system, and its wastewater treatment plant (WWTP) has a purported treatment capacity of 0.50 million gallons-per-day (MGD). Effluent from the WWTP system is discharged to Imperial Irrigation District's "R" Drain and ultimately to the Salton Sea. Imperial Irrigation District's "R" Drain and the Salton Sea are waters of the United States.
2. The discharge from the WWTP is governed by Waste Discharge Requirements (WDRs) Order No. R7-2014-0001 (National Pollutant Discharge Elimination System (NPDES) Permit No. CA0104451) and Cease and Desist (CDO) Order No. R7-2012-0024.
3. Because NSD was in chronic violation of the effluent limitations for bacteria and copper in its NPDES Permit, the Regional Water Board adopted the CDO, which directs NSD to implement a series of tasks in accordance with a time schedule to bring its discharge into full compliance with the permit.
4. To comply with the CDO, NSD proposes to abandon its NPDES discharge, upgrade/retrofit its WWTP, and discharge treated wastewater from the upgraded WWTP to land. The construction cost for this proposal is estimated to be approximately \$5.8 million.
5. In 2015, the U.S. Environmental Protection Agency (USEPA), North America Development Bank (NADBank), and U.S. Department of Agriculture (USDA) committed to provide grants to fund 100% of the construction of the Discharger's proposal, provided the Discharger would generate the necessary revenue to properly operate and maintain its proposed wastewater treatment and disposal system. Imperial County provided technical support so that the Discharger could implement its proposal. It has also provided financial assistance to the Discharger in an effort to enable the Discharger to meet its financial obligations.
6. The current sewer rate in Niland is \$37.74 per month per Equivalent Dwelling Unit (EDU). A 2017 sewer rate study prepared by USDA for the Discharger shows that the Discharger needed to raise its sewer rates by 35% to properly operate and maintain its proposed treatment and disposal system. Raising the sewer rates requires voter approval pursuant to state law (Proposition 218).
7. In summer of 2017, the Discharger sought voter approval to increase its sewer rates, but the Niland voters rejected the proposed rate increase.

8. NSD has been operating its WWTP at a financial deficit and has also had difficulties meeting other financial obligations. NSD lacks institutional capacity to implement its proposal, is not solvent, and was unable to secure voter approval for the rate increase. Because of these issues, USEPA withdrew its financial assistance for NSD and committed its funds to other shovel-ready priority projects along the United States-Mexico border.
9. In August 2017, the Imperial County Local Agency Formation Commission (LAFCO) voted and began proceedings to dissolve NSD, also based on the above-noted shortcomings. LAFCO voted that the dissolution become effective when Imperial County forms a successor public agency and the successor is ready to take over the sewer services for Niland.
10. In March 2018, Imperial County completed a new sewer rate study that shows sewer rates must actually be increased to \$62.76 per month per EDU.
11. NSD's service area has a median household income of \$19,653 and has seen a population decline from 2000 to 2014 of 7%. Nearly 50% of the population within this service area earns less than 125% of the federal poverty level. Minorities make up nearly 77% of the population in Niland and are severely economically disadvantaged.
12. Imperial County is seeking additional financial assistance to implement the \$5.8 million proposal and minimize the economic impact that the rate increase will have on the Niland community. Imperial County intends to seek voter approval for its proposed rate increase, in June 2018. If the voters approve the rate increase, NSD will be dissolved and Imperial County will seek to form either a new Special District or County Service Area to take over the sewer services and WWTP for the community.
13. Potential sources of funding administered by the State Water Resources Control Board include: (a) the Cleanup and Abatement Account; (b) the Water Quality, Supply, and Infrastructure Improvement Act of 2014 (a.k.a. Proposition 1); and (c) the Clean Water State Revolving Fund Program.
14. Regional Water Board staff has been working closely with USEPA, NADBank, USDA, NSD, LAFCO, and Imperial County to deal with this matter.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Regional Water Board supports Imperial County in its effort to take steps to provide for adequate sewerage service for Niland and to ensure consistent compliance with Board Orders;
2. The Regional Water Board considers having a public agency with institutional capacity to properly operate and maintain the sewage infrastructure for Niland essential to ensure compliance with its Orders;
3. The Regional Water Board recommends that the State Water Board make funding for the proposed treatment and disposal system a priority;
4. The Regional Water Board directs the Executive Officer to continue working with Imperial County, LAFCO, USDA, NADBank, and USEPA to address the sewer and financial needs of Niland; and

5. The Executive Officer forward a copy of this Resolution to the State Water Board, LAFCO, Imperial County, USEPA, NADBank, USDA, and NSD for their consideration.

I, Jose L. Angel, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of a resolution adopted by the California Regional Water Quality Control Board, Colorado River Basin Region, on June 14, 2018.



JOSE L. ANGEL, P.E.
Executive Officer