

Exhibit C:

Forestville Waste Water Treatment, Reclamation and Disposal Facility

Determination of Eligibility for Compliance Project

As a Small Community with Financial Hardship

North Coast Regional Water Quality Control Board

TO: Shin-Roei Lee, P.E.
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NORTH COAST REGIONAL WATER QUALITY CONTROL BOARD

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DATE: November 30, 2016

SUBJECT: FORESTVILLE WASTEWATER TREATMENT RECLAMATION AND DISPOSAL FACILITY, DETERMINATION OF ELIGIBILITY FOR COMPLIANCE PROJECT AS A SMALL COMMUNITY WITH FINANCIAL HARDSHIP

Background and Summary

The Forestville Water District (Discharger) owns the Forestville Wastewater Treatment Reclamation and Disposal Facility (WWTRDF), a Publicly Owned Treatment Works (POTW), located at 6194 Forestville Street, Forestville in Sonoma County. On January 26, 2016, the Prosecution Team of the North Coast Regional Water Quality Control Board (Regional Water Board), issued an administrative civil liability complaint (ACLC) for discharges from the WWTRDF, and provided them with a copy of the table of violations for which the Regional Water Board is required to impose mandatory minimum penalties (MMPs) pursuant to California Water Code (Water Code) section 13385, subdivisions (h) and (i). The letter transmitting these documents noted that liability was proposed based on the Discharger's exceedance of effluent limitations set forth in Waste Discharge Requirements (WDRs) Order No(s). R1-2004-0027, R1-2012-0012, and Cease and Desist Order (CDO) No. R1-2012-0011.

On February 8, 2016, the Discharger responded to the Regional Water Board, indicating its preference to engage in settlement discussions with the Prosecution Team by selecting "option 2" of the waiver form provided by the Prosecution Team in the ACLC package. In response, the prosecution staff has conducted an analysis, detailed below, to determine financial hardship status of the community that the Forestville WTRDF serves, and if the Discharger qualifies for a compliance project. Based on the analysis below, the Forestville

WWTRDF does serve a community that has a financial hardship and therefore, does qualify to utilize the penalty, in part or in full, toward a compliance project.

Analysis

Water Code section 13385, subdivision (k), provides that the State Water Resources Control Board (State Water Board) or Regional Water Board may, contingent upon certain findings, require a POTW serving a small community to spend an amount of money equivalent to the MMP amount toward the completion of a compliance project proposed by the POTW, in lieu of paying the penalty amount to the State Water Board's Cleanup and Abatement Account. Water Code section 13385, subdivision (k)(2), defines a POTW "serving a small community" as:

"[A] publicly owned treatment works serving a population of 10,000 persons or fewer or a rural county, with a financial hardship as determined by the state board after considering such factors as median income of the residents, rate of unemployment, or low population density in the service area of the publicly owned treatment works."

Determining whether a POTW is "serving a small community" entails two separate determinations, whether: (1) the POTW is either situated within a rural county or has a population of 10,000 or less; and (2) the POTW's service area has a "financial hardship."

1. Rural County/Population Cap

The State Water Board's Water Quality Enforcement Policy¹ (*Enforcement Policy*), defines a "rural county" as "a county classified by the Economic Research Service, United States Department of Agriculture (ERS, USDA) with a rural-urban continuum code of four through nine."

The Forestville WTRDF is a POTW located in Sonoma County. According to the 2013 Rural Urban Continuum Codes file updated on May 10, 2013,² Sonoma County has a rural-urban continuum code of two (Metro - Counties in metro areas of 250,000 to 1 million population) and therefore, does not fall within the "rural county" classification. Based on United States Census Bureau data discussed below, the block groups encompassing the WTRDF service area have a population of 4,244, which meets the population requirement.

2. Financial Hardship

Consistent with Water Code section 13385, subdivision (k)(2), the *Enforcement Policy*, at page 24, defines "financial hardship" in terms of median household income (MHI),

¹ A copy of the State Water Board's Water Quality Enforcement Policy is available at http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf.

² <http://www.ers.usda.gov/data-products/rural-urban-continuum-codes.aspx>, accessed March 9, 2015.

unemployment rate or poverty level. Specifically, the *Enforcement Policy* defines “financial hardship” as meaning that the community served by the POTW meets one of the following criteria:

- *Median household income*⁴ for the community is less than 80 percent of the California median household income;
- *The community has an unemployment rate*⁵ of 10 percent or greater; or
- *Twenty percent of the population is below the poverty level.*⁶

“Median household income,” “unemployment rate,” and “poverty level” of the population served by the POTW are based on the most recent U.S. Census block group⁷ data or a local survey approved by the Regional Water Board in consultation with the State Water Board.

⁴ **Median household income** *The median income divides the income distribution into two equal groups, one having incomes above the median and the other having incomes below the median.*

⁵ **Unemployed** *All civilians, 16 years and older, are classified as unemployed if they (1) were neither “at work” nor “with a job but not at work” during the reference week, (2) were actively looking for work during the last 4 weeks, and (3) were available to accept a job. Also included as unemployed are civilians who (1) did not work at all during the reference week, (2) were waiting to be called back to a job from which they had been laid off, and (3) were available for work except for temporary illness.*

⁶ **Poverty** *Following the Office of Management and Budget’s Directive 14, the Census Bureau uses a set of income thresholds that vary by family size and composition to detect who is poor. If the total income for a family or unrelated individual falls below the relevant poverty threshold, then the family or unrelated individual is classified as being “below the poverty level.”*

⁷ **Block group** *A subdivision of a census tract (or, prior to 2000, a block numbering area). A block group is the smallest geographic unit for which the Census Bureau tabulates sample data. A block group consists of all the blocks within a census tract beginning with the same number. Example: block group 3 consists of all blocks within a 2000 census tract numbering from 3000 to 3999. In 1990, block group 3 consisted of all blocks numbered from 301 to 399Z.”*

Based on the City of Forestville service area boundary line (the closest boundary line available geospatially related to the Forestville WWTRDF boundary), which is publicly provided by the City of Forestville, and the United States Census Bureau tract and block group map layers available in ArcGIS, the Forestville WWTRDF service area appears to lie within Sonoma County Census Tracts 1537.05 and 1537.06 including portions of block groups 2, 3, and 4, within Tract 1537.05, and block groups 1, 4 within Tract 1537.06, as shown in Figure 1.

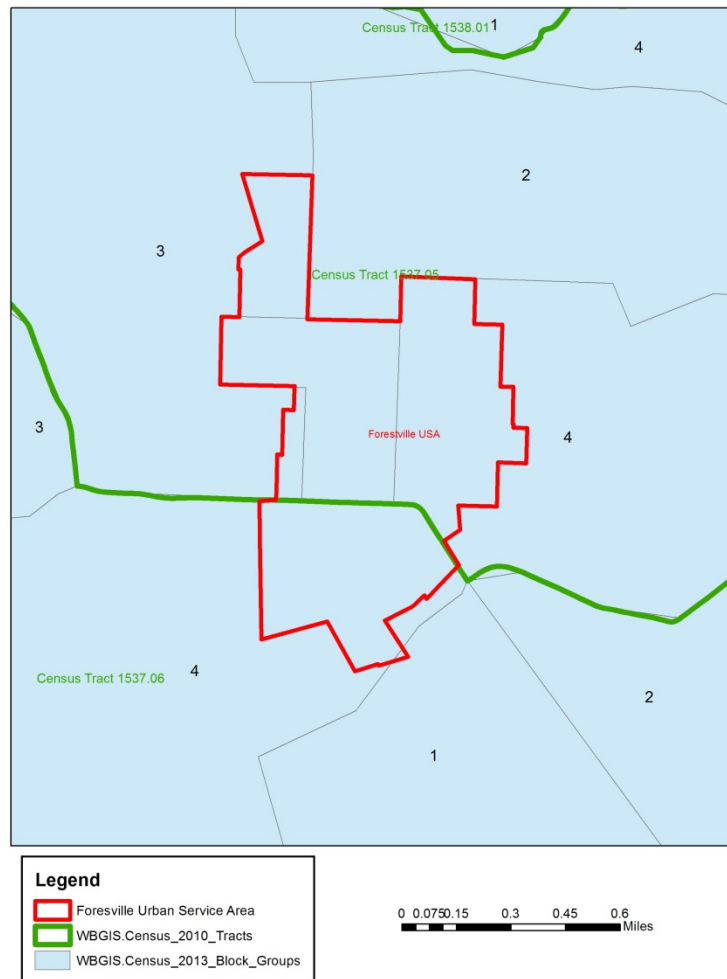


Figure 1 – Forestville Urban Service Area, Census Tract, and Census Block Group Boundaries

As the 2010 decennial census did not include collection of economic data, the most recent available economic data are from the United States Census Bureau’s ongoing American Community Survey (ACS) estimates. For smaller communities such as Forestville, ACS data are only available for 5-year estimates. The most recent available 5-year estimate with block group data is that for 2014. Selected data tables may be retrieved through the Census Bureau’s American FactFinder portal, available at <http://factfinder.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t>. The following tables were identified as providing the necessary information at the block group level, and the data were retrieved (block group level data provided in Attachment):

Table #	Table Description	Tract 1537.05 block groups 2, 3, and 4 2014 5-year	Tract 1537.06 block groups 1 and 4 2014 5-year	Combined block group Data 2013 5-year	California 2013 5-year	Financial Hardship Criterion
B01003	Total Population	2,893 people	1,351 people	4,244 people	N/A	Population <10,000 criteria met
B19001	Number of Households	1,389 households	1,650 households	2,657 households	N/A	N/A
B19013	Median Household Income In The Past 12 Months (In 2014 Inflation- Adjusted Dollars)	\$54,008 (household- weighted by block group)	\$68,343 (household- weighted by block group)	\$59,733 (household- weighted by block group)	\$61,933	MHI less than 80% of CA MHI 80% CA MHI = \$49,546 criteria Not met
B23025	Employment Status For The Population 16 Years And Over	1,855 in labor force. Of those, 262 unemployed. 14% unemployed	777 in labor force. Of those, 59 employed. 7.6% unemployed	2,696 in labor force. Of those, 321 unemployed. 12% unemployed	N/A	Unemployment rate 10% or greater criteria met
C17002	Ratio of individuals below the Poverty Level (as percent of total population) in the Past 12 Months	419/2,893 15.8% below poverty level	77/1,351 5.7% below poverty level	496/4,244 12% below poverty level	N/A	20% below poverty level criteria Not met

Based on the *Enforcement Policy's* criteria and the most recent U.S. Census block group data, the Forestville WWTRDF does qualify as a small community with a financial hardship, given that the unemployment rate for the combined census block groups and tracts that the Forestville WWTRDF serves is greater than 10%. If the Discharger believes that the U.S. Census data used in this determination do not accurately represent the population served by the Forestville WWTRDF, the *Enforcement Policy* provides for the possibility of a local survey approved by the Regional Water Board in consultation with the State Water Board (p. 24) and a procedure by which the Discharger may present an alternative justification to the Regional Water Board for designation as a "POTW serving a small community (p. 25)." Pursuant to the *Enforcement Policy*, the Regional Water Board must consult with the State Water Board when making such determinations.

Attachment: Summary of American FactFinder Tract and block group Data

cc: Susan Loscutt, Office of Enforcement, State Water Resources Control Board