

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

DIVISION OF WATER RIGHTS

In the Matter of Wastewater Petition WW0102  
Loleta Community Services District

**ORDER APPROVING CHANGE IN  
PURPOSE OF USE AND PLACE OF USE**

SOURCE: Eel River tributary to Pacific Ocean

COUNTY: Humboldt

**WHEREAS:**

1. Loleta Community Services District (Loleta CSD) filed Wastewater Change Petition WW0102 with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) on December 17, 2018, pursuant to Water Code section 1211. The petition seeks to change the purpose of use and place of use of up to 0.125 cubic foot per second (cfs) of treated wastewater.

The Loleta CSD proposes a change in wastewater operations that would recycle treated wastewater generated by the Loleta CSD's Wastewater Treatment Facility (WWTF). This wastewater is currently discharged to a wetland tributary to the Eel River after treatment, and the project would require construction of new conveyance infrastructure (pipelines and pumps) to convey water to an existing pasture for irrigation. The project is being done as the result of North Coast Regional Water Quality Control Board Order R1-2015-0008 that restricts the discharge of treated wastewater to the subject waterbody from May 15 to September 30 of each year.

2. Water Code section 1211 requires the owner of any 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, when changes in the discharge or use of treated wastewater result in decreasing the flow in any portion of a watercourse.
3. The Division issued public notice of the change on December 28, 2018. No protests were filed.
4. The State Water Board has determined that the petition for change in the purpose of use and place of use will not cause injury to any other lawful user of water.
5. Under the California Environmental Quality Act (CEQA), the Loleta CSD is the lead agency for preparation of environmental documentation for the project. On August 4, 2017, the Loleta CSD issued a Mitigated Negative Declaration (MND) titled "Loleta Community Services District Wastewater Treatment Facility and Effluent Disposal Improvement Project," SCH # 2017082013. An Addendum to the MND was filed on October 11, 2018 to change the proposed land application site after a lease agreement could not be reached on the initial property. Due to this change, the length of trenching required to install the main pipe would be reduced. In addition, improvements to the existing discharge piping would be made to improve long term integrity of the system. On November 21, 2018, Loleta CSD issued a Notice of Determination (NOD) for the project.

6. The State Water Board is a CEQA responsible agency for purposes of considering whether to approve the wastewater change petition that will allow the Loleta CSD 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 MND in deciding whether to approve the petition. Listed below are the significant impacts identified in the MND that fall within the State Water Board's purview. These impacts result from the construction of the pipeline and related infrastructure to serve water to the pasture for irrigation use.

The mitigation measures recited below are identified in the Mitigation Monitoring and Reporting Program (MMRP) included in the MND and pertain to the protection of resources within the State Water Board's purview. These mitigation measures have been incorporated into the project. With incorporation of these mitigation measures, impacts are avoided or reduced to a less than significant level.

The State Water Board will issue a NOD within five days of the date of this order.

#### 6.1 Construction Corridor:

Mitigation Measure 1: During construction activities at the WWTF, all ground disturbing activity will be set back at least five feet from the edge of the wetland. The 5-foot buffer will be physically demarcated using construction fencing that will be placed and periodically maintained by a qualified biologist. Contractors will be educated on the purpose of the wetland setback and construction specifications and bid documents will prohibit any construction activity within five feet of the wetland.

Mitigation Measure 2: During trenching in agricultural areas (including all wetland areas), the top six inches of excavated material shall be separately stockpiled by the contractor. The contractor shall assure that this stockpiled soil material is kept moist and that the material is restored to the construction trench as soon as is feasible. This topsoil material shall be reintroduced as the top fill material in the restored trench section.

Mitigation Measure 3: All Best Management Practices (BMPs) detailed within the project description shall be adhered to in order to reduce impacts during construction.

#### 6.2 Cultural Resources:

Mitigation Measure 4: If cultural resources are encountered during construction activities, all onsite work shall cease in the immediate area and within a 50-foot buffer of the discovery location. A qualified archaeologist will be retained to evaluate and assess the significance of the discovery, and develop and implement an avoidance or mitigation plan, as appropriate. For discoveries known or likely to be associated with Native American heritage (prehistoric sites and select historic period sites), the Tribal Historic Preservation Officers (THPOs) for the Bear River Band of Rohnerville Rancheria, Blue Lake Rancheria, and Wiyot Tribe are also to be contacted immediately to evaluate the discovery and, in consultation with the project proponent, the County, and consulting archaeologist, develop a treatment plan in any instance where significant impacts cannot be avoided. Prehistoric materials which could be encountered include: obsidian and chert debitage or formal tools, grinding implements (e.g., pestles, handstones, bowl mortars, slabs), locally darkened midden, deposits of shell, faunal remains, and human burials. Historic archaeological discoveries may include nineteenth century building foundations, structural remains, or concentrations of artifacts made of glass, ceramics, metal or other materials found in buried pits, old wells, or privies.

Mitigation Measure 5: If human remains are discovered during project construction, work will stop at the discovery location, within 20 meters (66 feet), and any nearby area reasonably suspected to overlie adjacent to human remains (Public Resources Code, Section 7050.5). The Humboldt

County Coroner will be contacted to determine if the cause of death must be investigated. If the Coroner determines that the remains are of Native American origin, it will be necessary to comply with State laws relating to the disposition of Native American burials, which fall within the jurisdiction of the Native American Heritage Commission (NAHC) (Public Resources Code, Section 5097). The Coroner will contact the NAHC. The descendants or most likely descendants of the deceased will be contacted, and work will not resume until they have made a recommendation to the landowner or the person responsible for the excavation work for means of treatment and disposition, with appropriate dignity, of the human remains and any associated grave goods, as provided in Public Resources Code, Section 5097.98. Whenever the NAHC is unable to identify a descendant, or the descendants identified fail to make a recommendation, or the landowner or his or her authorized representative rejects the recommendation of the descendants and the mediation provided for in subdivision (k) of Section 5097.94, if invoked, fails to provide measures acceptable to the landowner, the landowner or his or her authorized representative shall reinter the human remains and items associated with Native American human remains with appropriate dignity on the property in a location not subject to further and future subsurface disturbance. To protect these sites, the landowner shall do one or more of the following:

- Record the site with the NAHC or the appropriate information center.
- Use an open-space or conservation zoning designation or easement.
- Record a document with the county in which the property is located. The document shall be titled "Notice of Reinternment of Native American Remains" and shall include a legal description of the property, the name of the owner of the property, and the owner's acknowledged signature, in addition to any other information required by this section. The document shall be indexed as a notice under the name of the owner.

### 6.3 Erosion:

Mitigation Measure 6: To avoid topsoil erosion and to protect the wetland function of the agricultural wetlands present in some project areas, an erosion and sediment control plan (ESCP) shall be prepared and implemented prior to and during project construction. This Plan will describe the measures to be used during and post-construction to protect wetlands and surface waters from water quality degradation due to sediment inputs or other water pollutants. The ESCP will make use of standard best management practices. It will specify the handling and disposal of petroleum and other hazardous materials during construction. This will include identifying a spill response plan and require that no fueling shall be conducted within wetland areas. In addition, the ESCP will specify that topsoil shall be set aside during trenching operations, such that it can be replaced as top cover following trench backfilling.

This order adopts the above mitigation measures and incorporates them as a condition of this order. These measures will be implemented as set forth in the MMRP and will commit the Loleta CSD to implement these actions. With the inclusion of the above mitigation measures, the potential for impacts as a result in the construction and operation of the proposed project are reduced to a less than significant level.

7. 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 MND and MMRP minimize impacts to biological and cultural resources and no adverse impacts to public trust resources are expected.
8. 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 Water Rights, and the Deputy Director for Water Rights has redelegated the authority.

**ORDER**

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

1. The Petitioner is authorized to change the purpose of use and place of use of 0.125 cfs of treated wastewater effluent discharged from the Loleta CSD Wastewater Treatment Facility. This rate is the maximum daily measured rate (averaged over a calendar month) specified by Loleta CSD's National Pollutant Discharge Elimination System (NPDES) Permit CA0023671, Order R1-2014-0013.
2. The authorized place of use is a 47-acre area as shown on the project map on file with the State Water Board, being within N½ of SW¼ of Section 18, T3N, R1W, HB&M. Treated wastewater from the proposed project may be used from May 15 to September 30 of each year. These dates are consistent with the Eel River prohibition requirements issued by the North Coast Regional Water Quality Control Board.
3. Treated wastewater may be used for irrigation purpose.
4. The mitigation measures specified in paragraph 6 above and in Loleta CSD's MMRP are hereby adopted.
5. The Loleta CSD is responsible to obtain and be in compliance with any wastewater discharge permits required by the Central Coast Regional Water Quality Control Board and the State Water Resources Control Board.

STATE WATER RESOURCES CONTROL BOARD

**Original Signed By**  
**SCOTT MCFARLAND, FOR**

*Eric Ekdahl, Deputy Director*  
*Division of Water Rights*

Dated: **FEB 26 2019**

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