

RESOLUTION NO 1035

RESOLUTION OF THE BOARD OF PUBLIC UTILITIES OF THE CITY OF SANTA ROSA DETERMINING THAT THE PEPPERWOOD PRESERVE BEST MANAGEMENT PRACTICES NUTRIENT OFFSET PROJECT IS WITHIN THE SCOPE OF THE DISCHARGE COMPLIANCE PROJECT ENVIRONMENTAL IMPACT REPORT, ADOPTING A MITIGATION MONITORING PROGRAM, ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS, APPROVING THE PROJECT, APPROVING THE LICENSE AGREEMENT WITH PEPPERWOOD FOUNDATION, A CALIFORNIA CORPORATION, AND APPROVING AMENDMENT NO. 3 TO AGREEMENT WITH SOTOYOME RESOURCE CONSERVATION DISTRICT

WHEREAS, pursuant to the National Pollutant Discharge Elimination System (NPDES) Permit, Order No. R1-2006-0045, CA0022764 (Permit) issued to the City of Santa Rosa (City) by the North Coast Regional Water Quality Control Board (RWQCB), the City may meet its effluent limitation for nitrogen and phosphorus by reducing loads elsewhere in the watershed through an approved offset program; and

WHEREAS, the RWQCB approved the Santa Rosa Nutrient Offset Program Resolution No. R1-2008-0061 (NOP); and

WHEREAS, pursuant to the NOP, the Pepperwood Preserve Best Management Practices Nutrient Offset Project (Project) has been approved for nutrient offset credit; and

WHEREAS, the Project was included as part of the larger Discharge Compliance Project for which the Board certified the Discharge Compliance Project Environmental Impact Report (DCP EIR) on October 2, 2008; and

WHEREAS, City has examined Project in light of the DCP EIR and has determined that the Project is within the scope of the DCP EIR; and

WHEREAS, the DCP EIR, the Pepperwood Preserve Best Management Practices Nutrient Offset Project CEQA Checklist, and supporting documentation can be reviewed at the Santa Rosa Subregional Water Reuse Facility; and

WHEREAS, City desires to carry out Project in order to offset its nutrient load by reducing loads elsewhere in the watershed.

NOW, THEREFORE, BE IT RESOLVED that the Board of Public Utilities:

1. Certifies that the Pepperwood Preserve Best Management Practices Nutrient Offset Project CEQA Checklist, together with the DCP EIR, has been completed in compliance with CEQA and the CEQA Guidelines; and
2. Determines that the Pepperwood Preserve Best Management Practices Nutrient Offset Project is within the scope of the DCP EIR and the environmental effects of the Project were adequately described and evaluated in the DCP EIR; and

3. Approves the Pepperwood Preserve Best Management Practices Nutrient Offset Project; and
4. Adopts the statement of overriding considerations attached as Exhibit A to this Resolution, in accordance with Public Resources Code section 21081, subdivision (b); and
5. Adopts the Mitigation Monitoring Program included as Chapter 3 of the CEQA Checklist; and
6. Provides that the coordinator to oversee implementation of the mitigation monitoring measures and the custodian of the documents or other material which constitutes the record of proceedings upon which this resolution is based is:

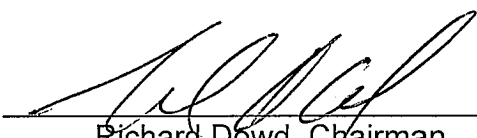
Deputy Director Environmental Services
Santa Rosa Subregional Water Reuse Facility
4300 Llano Road
Santa Rosa, CA 95407

7. Approves the License Agreement with Pepperwood Foundation, a California corporation, and authorizes the Chair to sign the License Agreement; and
8. Approves Amendment No. 3 to the Professional Services Agreement with Soyotome Resource Conservation District for Nutrient Offset Project Development and authorizes the Chair to sign the Amendment.

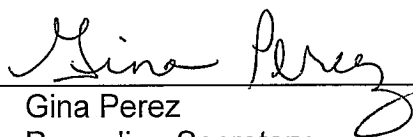
DULY AND REGULARLY ADOPTED by the City of Santa Rosa Board of Public Utilities this 1ST day of November, 2012.

AYES: (7) DOWD, GALE, CARNEY, GALVIN, LOWRY, MEECHAN AND SWINTH
NOES: (0)
ABSENT: (0)
ABSTAIN: (0)

APPROVED: _____


Richard Dowd, Chairman
Board of Public Utilities

ATTEST: _____


Gina Perez
Recording Secretary

APPROVED AS TO FORM:



City Attorney

Attachment: Exhibit A Statement of Overriding Considerations

**EXHIBIT A TO
BOARD OF PUBLIC UTILITIES RESOLUTION NO. 1035**

The following statement of overriding considerations was adopted for the Discharge Compliance Project on December 4, 2008 as part of BPU Resolution 945 approving the Environmentally Superior Alternative for the Discharge Compliance Project. The Nutrient Offset Program was specifically called out as a part of the Environmentally Superior Alternative for the Discharge Compliance Project, and therefore, the statement of overriding considerations made for the Discharge Compliance Project applies to the Nutrient Offset Program, and hence applies also to the Pepperwood Preserve Best Management Practices Nutrient Offset Project, which is as part of the Nutrient Offset Program.

**STATEMENT OF OVERRIDING CONSIDERATIONS
(PUB. RESOURCES CODE, § 21081, SUBD. (B).)**

December 4, 2008

1. Introduction

“CEQA recognizes that in determining whether and how a project should be approved, a public agency has an obligation to balance a variety of public objectives, including economic, environmental, and social factors and in particular the goal of providing a decent home and satisfying living environment for every Californian. An agency shall prepare a statement of overriding considerations as described in CEQA Guidelines section 15093 to reflect the ultimate balancing of competing public objectives when the agency decides to approve a project that will cause one or more significant effects on the environment.” (CEQA Guidelines, § 15021, subd. (d); see also *City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 401; CEQA Guidelines, § 15093.) A statement of overriding considerations sets forth the reasons why the agency finds the project’s “specific economic, legal, social, technological, or other benefits” render “acceptable” its “unavoidable adverse environmental effects.” (CEQA Guidelines, §§ 15093, subd. (a), 15043, subd. (b); see also Pub. Resources Code, § 21081, subd. (b).)

As set forth in the CEQA findings adopted by the Santa Rosa Board of Public Utilities (“Board”), the approval of the Discharge Compliance Project (Project) by the Board will result in significant adverse environmental effects that cannot be substantially lessened or avoided even with the adoption of all feasible mitigation measures. Despite these impacts, the Board chooses to approve the Project because the economic, social, environmental, and other benefits of the Project will render the otherwise significant and unavoidable effects acceptable.

The following statement identifies the reasons that, in the Board’s judgment, the benefits of the Project as approved outweigh its unavoidable significant effects. The substantial evidence supporting the various benefits can be found in the documents identified for inclusion in the Record of Proceedings.

2. Overriding Considerations

The Board finds that the Project would have the following economic, social, environmental and other benefits.

a. **Provide adequate wastewater disposal capacity**

The Project is needed to provide disposal of the wastewater generated by the Subregional Water Reuse System members in a manner that is reliable and in compliance with regulatory requirements. The volume of water the Project must dispose of is based on the Incremental Recycled Water Program (IRWP) Master Plan (August 2007). Discharge volume must be consistent with the System's National Pollutant Discharge Elimination System (NPDES) permit and would be 2,900 MG in the wettest year on record.

The Project's components, when taken together, provide the required wastewater disposal capacity and meet the Subregional System's design requirements of 25.9 mgd average dry weather flow (ADWF). The Preferred Project includes operation of the discharge as described in the Geysers Discharge Management Plan (Santa Rosa 2008) and the Discharge Management Plan for 25.9 mgd (FEIR Appendix M). The Project thus ensures that the system will be able to manage anticipated flows reliably. (See DCP Final EIR Master Response D, Relationship between the Discharge Compliance Project and the Incremental Recycled Water Program.)

For further information regarding future Subregional System flows, and existing and projected flows, see IRWP Master Plan Section 1, and DCP Draft EIR Chapter 2 (Project description). See also Draft EIR Technical Memorandum D-7 (Water Balance Model Summary).

b. **Protect public health and safety, protect natural resources, promote use of recycled water, meet regulatory requirements, and provide flexibility**

A primary objective of the project is to develop and operate the wastewater disposal system in ways that protect public health and safety, protect natural resources including the Russian River and its tributaries, promote use of recycled water, meet current regulatory requirements, and provide flexibility to meet future regulatory requirements. The Project has been designed to meet this objective.

i. **Protect public health and safety and natural resources**

The comparative analysis contained in the Discharge Compliance Project Environmental Impact Report (DCP EIR) indicates that the Preferred Project, identified in the EIR as the Laguna Discharge Alternative, represents the environmentally superior alternative, and the Project components represent the environmentally superior combinations of components.

The Project has significant unavoidable construction impacts (traffic, noise, the potential for damage to cultural resources, and interference with recreation in the Laguna), as well as

significant unavoidable permanent impacts (loss of one acre of agricultural land, generation of greenhouse gas emissions, and potential contribution to the loss of California Native Plant Society (CNPS) List 2, 3, or 4 plant species). The Project significantly reduces the water quality impact of recycled water to be discharged by adding a multi-port diffuser in the Laguna; implementing the Nutrient Offset Program to reduce nutrient loading within the Laguna watershed; complying with the nitrate Maximum Contaminant Level (MCL) for drinking water either through establishing a mixing zone in the Laguna approved by the North Coast Regional Water Quality Control Board or by implementing Enhanced Nutrient Removal facilities at the Laguna Plant; and by installing aerators in storage ponds if future regulations regarding dissolved oxygen concentrations require. Discharge would continue to comply with the California Toxics Rule, as applied by the Regional Water Quality Control Board.

For this reason, the Project is consistent with the City's objective to "[d]evelop and operate the wastewater disposal system in ways that protect public health and safety [and] protect natural resources including the Russian River and its tributaries."

ii. Meet current regulatory requirements and provide flexibility to meet future regulatory requirements

Discharge of recycled water is subject to the California Toxics Rule (CTR), National Pollutant Discharge Elimination System (NPDES) Permit, North Coast Region Basin Plan, and potential TMDLs (Total Maximum Daily Loads). The Project is designed to achieve the quality of recycled water that will be required by regulatory agencies. The Project is also designed to limit discharge to a maximum of 2,900 MG per year in the wettest year consistent with an average dry weather flow (ADWF) of 25.9 mgd, as prescribed by the Recycled Water Master Plan.

Numerous reasonably foreseeable future changes to regulations were identified in the EIR, and mitigation measures have been identified to bring discharge of recycled water into conformance with these potential future more stringent regulations, in the event they are adopted as currently proposed. The Project is subject to Mitigation Measures 3.5.17, Reduce Chlorine Use and/or Dechlorinate; 3.5.18, Source Control Program for Mercury/Methylmercury; and 3.5.10, Install Aerators in Storage Ponds in the event that chlorine, mercury/methylmercury, or dissolved oxygen regulations are made more stringent in the future requiring City response to comply. In addition, the Project is located and designed in such a manner that compliance could be achieved with future changes to regulations that are not reasonably foreseeable at this time. Even though these mitigation measures are not applicable to the Project, they could be implemented in conjunction with the Project at a future time, if required: 3.5.3, Construct Cooling Towers; 3.5.1, Construct Advanced Membrane Treatment; and 3.5.13, Construct Additional Seasonal Storage Capacity.

For these reasons, the Project is consistent with the City's objective to "[d]evelop and operate the wastewater disposal system in ways that ... meet current regulatory requirements, and provide flexibility to meet future regulatory requirements."