

CITY OF JACKSON

MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Michael Daly, City Manager

DATE: February 14, 2011

SUBJECT: Wastewater Permit Compliance Planning

RECOMMENDATION

That the City Council approve the recommendation approved by the Sewer Rate Committee, “that this committee focus its efforts on the rate impact evaluation relative to the implementation of the land disposal Option E and recommend to the City Council that they initiate the CEQA/EIR process which should include the No Project and Reservoir proposal from Ken Berry as alternative options.”

It is further recommended that the City Council authorize staff to begin the preparation of the California Environmental Quality Act review of these projects by issuing a request for qualifications to select the firm best suited to complete the environmental impact report.

DISCUSSION

On July 12, 2010, the City Council received a [Wastewater Options Report](#) from ECO:LOGIC (which was acquired by Stantec shortly thereafter) outlining the best apparent options for complying with the water quality and effluent discharge requirements contained within the City’s National Pollutant Discharge Elimination System (NPDES) permit that allows the City to discharge treated wastewater effluent into Jackson Creek. The City Council reviewed the report and formed a rate review committee to evaluate the sewer rate changes that would be necessary to finance the improvements required to comply with permit requirements.

The committee has now met eight times (approximately two hours per meeting) and most of the discussion has focused on the array of options presented in the Wastewater Options Report and other options identified by the public. The other options have included purchasing water from the Amador Water Agency to supplement Jackson Creek flows, an aggressive mandatory water conservation plan, constructing a pipeline in Jackson Creek to transport the City’s effluent discharge directly to Lake Amador, and using a new reservoir to capture rainfall runoff (with possible supplements of either creek water or treated effluent) to release back into Jackson Creek at critically dry times of the year to improve dilution. One other option identified in the Stantec report (Option C) is participating in a regional water reclamation plan to upgrade treatment of dry weather effluent to full Title 22 tertiary standards for use in industrial processes and all forms

of irrigation. This plan is looked at favorably by the committee, but timing and other external issues out of the control of the City complicate this option.

In addition to reviewing the various discharge options, the committee has heard from citizens concerned about the validity and accuracy of the data provided by the City's contracted engineering firm, Stantec, as well as their recommended project to address the City's current NPDES permit requirements. At the last Sewer Rate Committee meeting, however, the committee voted 5-1 in favor of recommending that the City Council begin the CEQA environmental impact report (EIR) process focusing on the project identified as Option E in the July 2010 Stantec report, which proposes the discharge of treated wastewater effluent on pasture lands during dry weather periods, and also include the reservoir option proposed by Mr. Berry as an alternative, as well as the "no project" alternative required in every CEQA analysis. Committee chairperson Judy Jebian submitted a letter following this meeting withdrawing her support for the motion, however, this did not change the outcome of the vote and committee member Joe Assereto who was not able to be present at the meeting, indicated he would have supported the motion.

The CEQA review needed for this project is two-fold. One is to evaluate the potential environmental impact of the construction and operation of any improvements that may be required by the City's compliance project, while the other is to provide information to the State Division of Water Rights for the water rights petition that must be filed if the City discontinues discharging any of its treated wastewater effluent into Jackson Creek. Although a great deal of information regarding the environmental issues associated with removal of the City's effluent from the creek was evaluated in the Beneficial Use Attainment Study (BUAS) that was completed in 2009 (to satisfy a requirement in the City's NPDES permit included as a result of a recommendation by the State Department of Fish & Game), as noted by Mr. Berry in his comments regarding the BUAS, this data needs to be updated to ensure that current conditions are evaluated. The City Attorney's office has reviewed the likely scope of work and determined that an EIR would be necessary rather than a Mitigated Negative Declaration.

Although unanimous agreement on a project to address the City's permit compliance requirements would be ideal, it is understandable that a project with the complexities of the City's wastewater discharge might result in differing opinions. Any project selected, however, is subject to the Regional Water Quality Control Board's evaluation as to whether it meets the conditions in the City's NPDES permit designed to comply with the Clean Water Act. To this end, the City provided a summary of the compliance issues and three primary options discussed by the committee to Regional Board staff for their comment regarding the efforts put forth to date. These options included 1) Option E – dry season application of wastewater effluent to land for pasture irrigation, 2) dry season export of the City's wastewater to a regional reclamation facility, and 3) the proposal by Mr. Berry for an off-line storage of natural run-off (and possible supplements of Jackson Creek flow and/or wastewater effluent) in a reservoir constructed southeast of the wastewater treatment plant for release to Jackson Creek during critical dry months of the year to improve wastewater dilution. A copy of this summary is attached. The RWQCB's Central Valley Region Assistant Executive Officer, Ken Landau, plans to attend the City Council meeting to provide information and respond to questions related to the City's

permit compliance issues. A letter commenting on the summary of compliance issues and primary options is anticipated from RWQCB staff but was not available at the time of the agenda packet publication. It will be posted on the website when available.

The need for all of this analysis and project consideration is driven by the requirements contained in the City's NPDES permit, a permit is required solely because the wastewater effluent is discharged into Jackson Creek. The cities of Sutter Creek and Ione are not required to have NPDES permits because they do not discharge into "waters of the United States." The combination of the dilution requirement in Lake Amador (a permit inclusion at the urging of the California Department of Public Health) and meeting increasingly stringent water quality requirements, many of which are included in the California Toxics Rule (promulgated by the Environmental Protection Agency through the Clean Water Act), limits the feasible options for compliance, however, both of these challenges can be addressed by the land discharge option. The "Basin Plan" adopted by the RWQCB encourages land disposal of effluent and requires dischargers to evaluate how land disposal can be optimized:

Wastewater Reuse Policy (Basin Plan page IV-14.00):

"The Regional Water Board encourages the reclamation and reuse of wastewater, including treated ground water resulting from a cleanup action, where practicable and requires as part of a Report of Waste Discharge an evaluation of reuse and land disposal options as alternative disposal methods. Reuse options should include consideration of the following, where appropriate, based on the quality of the wastewater and the required quality for the specific reuses: industrial and municipal supply, crop irrigation, landscape irrigation, ground water recharge, and wetland restoration. Where studies show that Year-round or continuous reuse or land disposal of all of the wastewater is not practicable, the Regional Water Board will require dischargers to evaluate how reuse or land disposal can be optimized, such as consideration of reuse/disposal for part of the flow and seasonal reuse/disposal options (e.g., dry season land disposal)."

The City has continued discussions with adjacent land owners to ensure that Option E continues to be an alternative available for disposal of wastewater effluent. Contracts with ranchers in other foothill communities have been provided to develop realistic expectations of the roles and responsibilities of the land owner and the City. These discussions are ongoing. A greater level of commitment will need to be established by both parties in the relatively near future to ensure that Option E is a realistic project to pursue.

A significant decision at this point in the process is how to proceed with the environmental impact report preparation. The two options include moving forward with Stantec based on their involvement with the City's wastewater compliance efforts to date, including preparation of the Beneficial Use Attainment Study, a detailed on-site evaluation of the ecosystem in Jackson Creek; or going out to competitive bid to formally evaluate the qualifications of all companies capable of providing these services. There is not a requirement to bid out professional services for work of this nature as would be required for a construction project or purchase of equipment.

The advantages to contracting with Stantec to prepare the EIR include their familiarity with wastewater issues in the foothills, including service to Jackson for the past eleven years, hands on experience with the Beneficial Use Attainment Study and the other complexities related to the City's wastewater discharge requirements, a shorter timeline to complete the EIR due to elimination of the bidding process and time that would be required to bring another firm "up to speed" on the discharge options under consideration and an established working relationship with City staff.

The advantages to going out to bid (which could still result in the selection of Stantec to prepare the EIR) include ensuring that the most qualified firm is hired to perform the work, assurance of competitive pricing (though total cost cannot be the only consideration for selecting a firm for professional services), bringing in a "fresh set of eyes" to the City's wastewater compliance problem-solving team (if Stantec is not selected), peer review of work previously completed by Stantec, and elimination of the criticism that the City has not allowed for a competitive selection process for this important project.

From the beginning of this wastewater permit compliance process, the City has worked to be inclusive with all interested parties and transparent with the information it is using to make these important decisions. Although there are many pros and cons to bidding out the environmental impact report job, the importance of ensuring an unbiased review of the options and environmental issues related to this process is paramount. In order to be sensitive to the concerns raised over a single firm performing the engineering and environmental review work, the staff recommendation is to put this project out to bid.

Attachments to this report include:

- 1) [*Summary of compliance issues and primary options recommended by the Sewer Rate Committee and transmitted to the Regional Board for comment.](#)
- 2) [*Correspondence dated 1/12/11 from Bill Condrashoff](#)
- 3) [Correspondence dated 1/19/11 from Judy Jebian](#)
- 4) [Correspondence dated 1/29/11 from Ken Berry](#)

*some of these attachments include color and larger format pages that can be viewed in the on-line version on City Council page on the City's website.

ec: Sewer Rate Committee
Diana Messina, Regional Water Quality Control Board
Harold Welborn, Stantec
Gene Mancebo, Amador Water Agency
Ken Berry
Frank Busi
Bill Condrashoff