



## City Council Agenda Item

**City Council Meeting Date:** September 3, 2019

**TO:** Jim Throop, City Manager

**FROM:** Brad Wilkie, Utility Director  
b\_wilkie@ci.lompoc.ca.us

**SUBJECT:** Decision and Direction Regarding the Appeal by the Lompoc Artificial Kidney Center, LLC, of Waste Discharge Permit I-0013 and Utility Director's Revised and Reissued Ruling on Request for Reconsideration in Accordance with Lompoc Municipal Code Sections 1.32.010 and 13.16.130

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### **Recommendation:**

Staff recommends the City Council:

- 1) Hear the Lompoc Artificial Kidney Center, LLC (Center) owner's appeal of Waste Discharge Permit I-0013 and of the Utility Director's Revised and Reissued Ruling on Request for Reconsideration; and
- 2) Direct staff to prepare a resolution:
  - a. Denying the appeal and upholding the Director's decision based on facts presented in the staff report and any additional facts identified by the City Council, and
  - b. Direct staff to return with an ordinance to amend the Lompoc Municipal Code (LMC) to allow use of water softeners for industrial use with an efficiency rating of no less than 4,000 grains of hardness removed per pound of salt used in regeneration, subject to compliance with salt limitations for all operations, and redefining hazardous waste dialysate (waste from dialysis operations); or
- 3) Alternatively, direct staff to prepare a resolution:
  - a. Upholding the appeal and overturning the Director's decision after identifying the facts upon which that direction is given, and
  - b. Directing staff to return with an ordinance to amend the LMC allowing use of water softeners for industrial use with an efficiency rating of no

less than 4,000 grains of hardness removed per pound of salt used in regeneration, subject to compliance with salt limitations for all operations, and redefining hazardous waste to exclude dialysate (waste from dialysis operations); or

- 4) Provide alternate direction.

**Background:**

LMC section 13.16.160 states: “In accordance with this Article, permits for the use of the City’s sewerage system shall be required of Class I users, Class II users, temporary users, and any other user discharging into or proposing to discharge into a City sewer shall obtain permits as required by [Utility] Director based upon the need to achieve the objectives set forth in Section 13.16.020 and to protect the public health and safety. Applications for permits under this Section shall be submitted as required by the [Utility] Director.”

Select definitions identified in LMC subdivision 13.16.030 B. are as follows:

User means any person [or] entity contributing, causing, or permitting the contribution of wastewater to the wastewater system.

Class I user means any Industrial User who discharges 10,000 gallons per day (average annual daily flow) of process wastewater or is otherwise determined to be a Significant industrial user (SIU) as defined herein. Waste haulers, as defined herein, shall also be Class I users.

Class II user means any user who discharges industrial wastes of less than 10,000 gallons per day (average annual daily flow) and whose discharge may:

- a. Contain unusual amounts of compatible pollutants, or
- b. Exceed applicable regulations, standards or limitations, or
- c. Contain incompatible pollutants, or
- d. Be judged to have any other special characteristics requiring site specific discharge limits.

Temporary user means any person or entity granted temporary permission by the [Utility] Director to discharge unpolluted water to the sewerage system, when no alternate method of disposal is reasonably available.

Industrial user (IU) means, generally, any discharger of industrial waste, or a source of indirect discharge.

Industrial waste means any solid, liquid or gaseous substance discharged or permitted to flow into a City sewer from any industrial, manufacturing, agricultural, commercial, or business establishment or process, or from the development, recovery, or processing of any natural resource.

Infectious waste includes human dialysis waste materials, including arterial lines and dialyzable membranes;

Significant industrial user (SIU) means any IU that:

- a. Is subject to Federal categorical pretreatment standards; or
- b. Discharges 25,000 gallons per day or more of process wastewater (average annual daily flow); or
- c. Contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic loading capacity of the wastewater treatment plant; or
- d. Has a reasonable potential, in the opinion of the [Utility] Director, to adversely affect the wastewater treatment plant (e.g., cause interference, pass-through, or endangerment to employees of the wastewater system).

Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into the wastewater system.

Pretreatment requirement means any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard, imposed on an IU.

National Pretreatment Standard (NPS) or pretreatment standard means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 USC 14347), which applies to IUs. NPS includes prohibitive discharge limits established pursuant to 40 CFR Part 403.5, and categorical standards specified in 40 CFR Parts 401-471.

Publicly owned treatment works (POTW) means a treatment works as defined by Section 212 of the Act, (33 USC Section 1292), including any sewers that convey wastewater to the POTW treatment plant, and any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature (see also wastewater system).

POTW treatment plant means that portion of the POTW which is designed to provide treatment (including recycling and reclamation of municipal sewage and industrial waste). (See also wastewater treatment plant.)

Public sewer means City sewer.

Domestic wastewater means wastewater from residences and other premises derived from personal use of water for washing or sanitary purposes.

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In addition, the following information is from the Sanitation Districts of Los Angeles County's website as it relates to water softeners:

([https://www.lacsd.org/wastewater/automatic\\_water\\_softeners/how\\_water\\_softeners\\_work.asp](https://www.lacsd.org/wastewater/automatic_water_softeners/how_water_softeners_work.asp)). It provides a brief summary of the some types of water softeners.

Water softeners are one of the most effective means of treating hard water, caused by an excess of minerals -- primarily calcium and magnesium -- in the water. Water hardness is measured in mineral grains per gallon, with water containing up to one grain per gallon considered soft. Water containing more than 10 grains per gallon is generally considered hard. In the Santa Clarita area, the water is considered hard, making water softeners a popular choice for residents. [This is also true of water provided by the Lompoc Water Treatment Plant.]

There are two basic types of water softeners: automatic water softeners (also known as self-regenerating water softeners) and exchange tank systems. Residential automatic water softeners are plumbed into the home's water supply and work by eliminating dissolved minerals through a process called ion exchange. Inside each water softener is a mineral tank that is filled with small plastic beads (also known as resin) that are negatively charged. To balance the charge, positively charged sodium ions are present on the beads. A separate brine tank holds a sodium chloride (salt) or potassium chloride solution, which is used to regenerate the softener. Under normal usage, hard water is passed through the mineral tank. The calcium and magnesium ions in the hard water have a stronger positive charge than the sodium or potassium ions on the resin. Therefore, the calcium and magnesium ions replace the sodium or potassium ions on the resin. The water flowing through the softener is now considered "soft" because the majority of the calcium and magnesium in the water has been replaced with sodium or potassium.

Eventually there will not be enough sodium left on the resin to effectively soften the water. Then the softener has to be regenerated. This process is usually done during the middle of the night because soft water is not available during the regeneration. To start the regeneration, salt water from the brine tank is sent to the mineral tank. The high levels of sodium or potassium in the brine force the calcium and magnesium off the resin, replacing it with sodium or potassium. The chloride present in the brine water simply stays in solution. After regenerating the mineral tank, the brine solution is flushed to the sewer. New salt or potassium chloride must be added to the brine tank on a regular basis to replace the salt or potassium chloride that is used to regenerate the mineral tank. Because chloride is not used up during the exchange process, eventually all of the chloride added to the mineral tank will end up being sewerred as spent brine.

Exchange tank softeners work in a manner similar to automatic water softeners, but feature a removable mineral tank that is replaced with a fresh mineral tank when the sodium on the resin is depleted. The depleted tanks are regenerated by water conditioning services at off-site facilities that are permitted to treat and discharge salty wastes, and thus do not put chloride into the Santa Clara River.

The City has a POTW treatment plant with a design capacity of 5.5 million gallons per day (dry weather flow). The City is required to establish and implement a pretreatment

program because the POTW treatment plant's design capacity exceeds 5.0 million gallons per day. In order to meet the requirements of the City's National Pollutant Discharge Elimination System (NPDES)<sup>1</sup> Permit issued by the California Regional Water Quality Control Board (RWQCB), the City is required to establish and implement a pretreatment program. The City's NPDES permit is expired. An application for a new permit was completed and accepted by the RWQCB prior to the expiration of the current NPDES permit and an updated NPDES permit is expected to be issued in the near future. Per direction of the RWQCB, salts have become an increasing concern for the POTW treatment plant, effluent limits for salts are expected to be lowered in the upcoming permit, and salts control in upstream users remain a priority for the POTW treatment plant.

As a POTW, the City's industrial waste pretreatment program was established to allow the POTW treatment plant to comply with effluent discharge requirements; to protect the public, the environment, POTW personnel, and POTW facilities from potentially harmful industrial wastes; and to ensure that industrial users (IUs) pay their fair share of treatment operations and maintenance costs. To achieve these objectives, in 1963 the City adopted the Wastewater Ordinance, which provides the legal authority to enforce the City's local requirements as well as all appropriate state and federal regulations. The POTW presently regulate an extensive and varied industrial base. The success of the City's industrial waste pretreatment program can be attributed to rigorous up-front permitting and pretreatment requirements, intensive and extensive field presence by the POTW's inspection staff and monitoring crews and aggressive enforcement actions for all violations.

The City's NPDES permit regulates the City's wastewater discharge of pollutants to waters of the United States; in the City's case; Miguelito Creek. As part of the City's NPDES permit, the City's pretreatment program goal is to protect the POTW's wastewater collection system, wastewater treatment plant and improve water quality by removing detrimental pollutants before entering the sewer system or treatment plant. Through the City's pretreatment program, 8 Industrial users of varied industries are permitted and required to monitor sewage discharges and about 100 food service establishments are inspected on a regular schedule. If the RWQCB finds the City in violation of the City's NPDES permit, then fines of up to \$6,000 per occurrence per day can be imposed against the City or against individual users.

### **Discussion:**

Following is a chronological summary of milestones, notices, correspondence and other events related to discussions between the City and the Center:

- September 13, 2018: The City received an anonymous complaint about the Center using large amounts of salt for their self-regenerating water softener. POTW staff visited the Center and observed a large self-regenerating system in use.
- September 24, 2018: The City issued a "Notice of Violation – Enforcement Order" (NOV) to the Center (Attachment 1). The Notice was sent via certified mail on September 25, 2018.

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- October 3, 2018: A meeting was scheduled between staff of the City and the Center for October 11, 2018, regarding the NOV.
- October 5, 2018: The Center delivered a letter to the City dated October 1, 2018 requesting an exemption from local water softening regulations (Attachment 2). The letter was forwarded to the City Attorney's Office. Due to the receipt of the letter, the October 11, 2018 meeting was cancelled.
- October 11, 2018: A response to the Center's October 5 letter was finalized and sent to the Center dated October 16, 2018 (Attachment 3).
- November 1, 2018: Mayor Lingl received a letter from Center requesting a medical exemption in the Center's favor (Attachment 4).
- November 15, 2018: Mayor Lingl responded to the Center's November 1, 2018, letter (Attachment 5).
- November 28, 2018: Staff from the City and the Center met to discuss the Survey for Wastewater Discharge Permit needed to establish parameters for an IU permit.
- January 30, 2019: City and Center staff met at 1:30 at City Hall to discuss the Center's NOV and self-regenerating water softener. In addition to City staff, Councilmember Vega and Utility Commissioner Linn also were in attendance.
- March 13, 2019: City staff obtained additional information from Center staff needed to issue the IU permit.
- April 8, 2019: City staff contacted Center staff regarding the determination that there is no exemption for water softeners installed before the year 2000.
- May 7, 2019: City staff contacted Center staff and advised that the IU permit was ready to be issued.
- May 8, 2019: City staff delivered a corrected IU permit to Center staff (Attachment 6).
- May 13, 2019: The City received a message from the Center (Attachment 7).
- May 20, 2019: Ian Guthrie, attorney for the Center, contacted City staff to request information on the City's appeal process and other items related to the permit.
- May 29, 2019: The Center delivered a Request for Consideration to the City (Attachment 8).

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- June 18, 2019: The City issued a Ruling on Request for Reconsideration to the Center (Attachment 9).
- June 25, 2019: City and Center staff met regarding the Ruling on Request for Reconsideration.
- June 27, 2019: The City issued a Revised and Reissued Ruling on Request for Reconsideration to the Center (Attachment 10).
- July 12, 2019: Ian Guthrie, attorney for the Center, issued a letter to the City, on behalf of the Center, requesting an appeal of Wastewater Permit I-0013 and the Revised and Reissued Ruling on Request for Reconsideration to the City Clerk (Attachment 11).
- July 19, 2019: The City Clerk issued a letter to the Center setting September 3, 2019, as the appeal date to the City Council of the Wastewater Permit I-0013 and the Revised and Reissued Ruling on Request for Reconsideration to the City Clerk (Attachment 12).

The July 12, 2019, Center's request for appeal of the Wastewater Permit I-0013 and the Revised and Reissued Ruling on Request for Reconsideration includes several points the Center desires the City Council to consider and take action on. Following are summaries of the requested actions and the City's response to those actions:

A. Amend the Ordinance to Clarify that Dialysate is Not Infectious Waste:

Response to Center's Requested Action:

The Revised and Reissued Ruling on Request for Reconsideration includes the following:

**“Discharge of Infectious Wastes to the Sanitary Sewer:** The Kidney Center discharges human dialysis waste materials to the City sanitary sewer system. Such wastes, defined as *infectious waste* per LMC, subdivision 13.16.030. B, are prohibited from discharge from a medical facility to the public sewer by any means (LMC, subdivision 13.16.280 A). Further, LMC, subdivision 13.16.280. B requires infectious waste generated by medical facilities shall be handled in accordance with applicable provisions of California Code of Regulations, title 22, as amended, and Article V of Chapter 18 of the Santa Barbara County Code, and the applicable provisions of that Chapter.”

“If the Kidney Center requests the City Council to amend LMC, subdivision 13.16.030 B. to exclude human dialysis waste materials from the definition of Infectious waste, then the City Manager and Utility Director will support that request. The Utility Director shall also

seek the necessary and required approval from the RWQCB for approval of that change.”

In addition, the Occupational Safety and Health Administration (OSHA) has the following definition of Other Potentially Infectious Materials (OPIM) that some wastewater ordinances have cited dialysate could be categorized as:

- (1) The following human body fluids: semen, vaginal secretions, cerebrospinal fluid, synovial fluid, pleural fluid, pericardial fluid, peritoneal fluid, amniotic fluid, saliva in dental procedures, any other body fluid that is visibly contaminated with blood such as saliva or vomitus, and all body fluids in situations where it is difficult or impossible to differentiate between body fluids such as emergency response;
- (2) Any unfixed tissue or organ (other than intact skin) from a human (living or dead); and
- (3) Any of the following, if known or reasonably likely to contain or be infected with HIV, HBV, or HCV:
  - (A) Cell, tissue, or organ cultures from humans or experimental animals;
  - (B) Blood, organs, or other tissues from experimental animals;
  - or
  - (C) Culture medium or other solutions.

Under circumstances in which differentiation between body fluid types is difficult or impossible, all body fluids shall be considered potentially infectious materials.”

In spite of the above OSHA language, the City Manager and Utility Director remain supportive and confident a modification to LMC subdivision 13.16.030 B. can be proposed to exclude human dialysis waste materials from the definition of infectious waste. A change in the language of the LMC subdivision 13.16.030 B has been proposed that would be acceptable to City staff, the Center and the RWQCB. The Utility Director shall seek the necessary and required approval from the RWQCB for approval of that change before submitting it to the City Council.

- B. Find the Kidney Center Generates Domestic Wastewater and is not a Discharger of Industrial Waste or an Industrial User.

Response to Center’s Requested Action:

The City Council should not make a finding that is inconsistent with the current language in the LMC. The City Council cannot reasonably approve the Center’s request to be designated a domestic user and not a discharger of industrial waste or designated an industrial user for the following reasons:

The Center’s wastewater is not domestic wastewater because its dialysis wastes are generated from commercial, rather than personal uses (i.e., dialysis performed



at a residence for a private individual) and it does not meet the definition at LMC 13.16.030. That dialysis waste also meets the express definition of industrial waste found in LMC subdivision 13.16.030 B. Therefore, the Center's wastewater qualifies as industrial waste and must be regulated accordingly. The Center's status as a Class I or Class II user will be determined pending results of representative sampling of the facility's waste stream. In the meantime, given the results of initial testing and the considerable salts load contributed by this single user, the City has elected a conservative approach to protect the POTW, both the collection system and POTW treatment plant, by regulating the facility as a Class I user, particularly in light of the fact that the facility has already derived considerable economic benefit from not being properly evaluated or regulated since it began operation in 1997.

C. Find the Kidney Center is not a Class I or II Industrial User.

Response to Center's Requested Action:

The City Council should not make a finding that is inconsistent with the LMC. The City Council cannot reasonably approve the Center's request to be designated a domestic user and not a discharger of industrial waste or designated an industrial user for the reasons stated in the response to B., above:

D. Revoke Wastewater Permit I-0013

Response to Center's Requested Action:

Because the facility has not yet provided all the information required for a complete Survey for Wastewater Discharge Permit form, the wastewater permit application, which is used to characterize the waste discharged into the City sewer, neither the Director nor the City Council can, at this time, reasonably countermand the decision requiring the issued permit. In addition, the responses in B. and C. above identify findings of fact for the Center to be classified as a Class I industrial user, necessitating the Center be permitted.

Once the Center's discharge point samples and testing data are available and a representative period of results indicate the Center's discharge amounts are below the City's NPDES permitted limits for receiving water quality standards, then the City can use that data to determine whether the Wastewater Discharge Permit is required based on empirical facts.

The Utility Director outlined a path to rescind the Center's Wastewater Permit I-0013 requirements in the Revised and Reissued Ruling on Request for Reconsideration that bring together pretreatment inspections and requests by the Center. The Revised Ruling offers two alternatives for removing the Center's permit requirements, Alternative 1 and Alternative 2 (see Attachment 10).

In addition to City inspections, the US Environmental Protection Agency (EPA) inspected the Center on April 25, 2019. The EPA Region 9 Enforcement Division conducted its Industrial User Inspection at the Center, and reported (in Section IV of report at Attachment 13) three areas of concern:

- Wastewater samples for self-monitoring and compliance monitoring must be collected at a location that is representative of all the facility's wastewater streams described in Section II.2 above [in the report]. The sampling should be representative of normal work cycles and expected discharges to the Lompoc Regional WRP.
- The facility has been designated and permitted as a significant industrial user and must comply with all the requirements of its wastewater discharge permit.
- The initial sampling of the facility wastewater had a chloride concentration more than three times the allowable limit and a sodium concentration almost twice the allowable limit.

There is an expectation from the EPA Enforcement Division the Center will comply with its permit. Even with the current inspection report, the Center must only comply with the Revised and Reissued Ruling on Request for Reconsideration and show data below permit limits over a period of time for the Utility Director to be able to remove the Center from permit requirements.

POTW or IU noncompliance can result in the RWQCB (the Approval Authority) enforcing directly against the IU, the POTW, or both. The RWQCB routinely reviews the overall performance of a POTW in monitoring IUs, identifying violations, and enforcing regulations. Performance will be evaluated on the basis of POTW self-monitoring data, written Enforcement Response Plans, audits, inspections, and pretreatment program reports (including IU self-monitoring reports and other data). Therefore, it is essential for POTWs to effectively manage program information to demonstrate proper implementation.

E. Find the Kidney Center's Current softener does not Violate 13.16.320.

Response to Center's Requested Action:

The Center's water softener is not legal in the City. The City's water softener ban incorporates by reference from the California Health and Safety Code (HSC) the numeric criteria and performance standards for residential water softeners. Even if those performance standards do apply to the Center's non-residential water softener, then the Center's water softener does not meet those standards specified in HSC 116790. The upgrades proposed by the Center to the water softener would enable the Center to come into compliance with the current requirements for water softeners in the City's service area; however, installation of such equipment has

no bearing on the need for a wastewater permit and the obligation to meet discharge requirements.

The City's NPDES permit is expired. An application for a new permit was completed and accepted by the RWQCB prior to the expiration of the current NPDES permit. An updated NPDES permit is expected to be issued in the near future. Per direction of the RWQCB, salts have become an increasing concern for the POTW treatment plant. Effluent limits for salts are expected to be lowered in the upcoming permit, and salts control in upstream users remain a priority for the POTW treatment plant. Given that representative data is not yet available from the Center of its wastestream, the facility remains a high priority for source control to ensure that its salts contribution does not exceed effluent limits for these parameters.

- F. Find an Upgraded Softener is a Salt Remediation Measure Allowed Under the LMC and complies with 13.16.230.

Response to Center's Requested Action:

The Center's existing water softener is not legal in the City. See the response to E., above.

- G. Find No Installation of Monitoring Equipment or Reporting is Required.

Response to Center's Requested Action:

The City has the authority to require monitoring facilities per LMC subsection 13.16.390 A, which states:

The Director may require any user to provide, operate, and maintain at user's expense flow monitoring, process monitoring, and/or sampling facilities. Upon notification from the [Utility] Director, the user shall provide, operate and maintain such facilities in accordance with Section 13.16.350 of this Chapter.

As mentioned above, under LMC Section 13.16.030 Definitions and Abbreviations, a "User" is "any person [or] entity contributing, causing, or permitting the contribution of wastewater to the wastewater system." As such, the Utility Director has the authority to require installation of monitoring facilities.

To even be considered for authorization to discharge into the sanitary sewer per LMC Section 13.16.160, "any other user discharging into or proposing to discharge into a City sewer shall obtain permits as required by [Utility] Director" and must submit a permit application and any additional information requested by the Utility Director (13.16.170). Therefore the Utility Director has the authority to request any manner of reporting or other information to determine whether a user's waste can be accepted for discharge into the collection system and treatment plan, and

whether and how that discharge must be permitted. The Center has not yet submitted all the permit application information required.

Furthermore, once the Director determines that treatment is needed, the Director has the authority to condition discharge authorizations according to the proper installation and operations of said treatment under LMC Section 13.16.350. When the Director determines it is necessary to modify or eliminate wastes or portions of wastes in order to comply with the LMC, the user shall provide, operate, and maintain continuously in satisfactory and effective operation at user's expense such pretreatment or processing facilities as may be necessary to ensure compliance with the LMC.

The July 12, 2019, request for appeal of the Wastewater Permit I-0013 and the Revised and Reissued Ruling on Request for Reconsideration (Attachment 11) includes subsequent informational sections, in addition the above requested and responded-to points. Following are additional responses (using the letter's numbering system for reference) to the information sections of the July 12, 2019 response from the Center:

IV, The City's NPDES Wastewater Permit

Response to Center's Request for Appeal:

The City's NPDES permit is expired and a timely application for an updated permit was submitted to the RWQCB. An updated permit is expected to be issued in the near future. Per direction of the RWQCB, salts have become an increasing concern for the POTW treatment plant, effluent limits for salts are expected to be lowered in the upcoming permit, and salts control in upstream users remain a priority for the POTW treatment plant. Given representative data are not yet available from the Center of its wastestream, the facility remains a high priority for source control to ensure that its salts contribution does not exceed effluent limits for those parameters.

V. The Kidney Center Generates Domestic Wastewater Rather than Industrial Waste and is Therefore Exempt from Permitting.

Response to Center's Request for Appeal:

For the City's response, please refer to the City's response to the Center's requested action item B, above.

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- VI. The Kidney Center's Current Water Softener is Legal but it will Voluntar[ily] Upgrade it if the City Agrees that no Wastewater Permit is Necessary.

Response to Center's Request for Appeal:

For the City's response, please refer to the City's response to the Center's requested action item E, above.

- VII. Dialysate is not Infectious Waste and the Ordinance Should be Amended to Clarify This.

Response to Center's Request for Appeal:

For the City's response, please refer to the City's response to the Center's requested action item A, above.

- VIII. The City Cannot Require the Kidney Center to install Monitoring Meters and Provide Reports.

Response to Center's Request for Appeal:

For the City's response, please refer to the City's response to the Center's requested action item G, above.

On June 11, 2019, the Center submitted plans to the City to expand operations at its current location. That expansion will provide for additional patient capacity and is anticipated to increase the Center's daily average water consumption above 10,000 gallons per day. At 10,000 gallons per day, the Center would be categorically identified as a Class I Industrial User. The submitted proposed plans include the addition of a new self-regenerative water softener while retaining the existing self-regenerative water softener. The work proposed for the expansion provides an excellent and cost effective opportunity to the Center to install a sampling location adequate for self-monitoring and regulatory monitoring activities.

The Center's Chief Technician has stated to City staff it uses approximately 90 pounds of salt per day for its regenerative process and that the regenerative process occurs 7 days-a-week. That number is consistent with the results of lab work of the City collected sample from the Center (Chlorides 756 mg/L), (Sodium 517 mg/L), (TDS 1,376 mg/L). Based on that self-reported consumption, the Center uses about 32,760 pounds, approximately, of salt per year. In comparison to a professional water softening service where chlorides discharged to the sewer averaged in 2018 to be 1,129 lbs./yr. (164 mg/L), sodium averaged to be 1,191 lbs./yr. (173 mg/L), and TDS averaged to be 4,978 lbs./yr., (723 mg/L). The softening service disposed of the briny waste by hauling it to a disposal site. The amount disposed was just over a half a million gallons.

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In addition, the Center has stated in the attached documents it uses approximately 60-75 pounds of salt per day for its regenerative process and that regenerative process occurs 6 days-a-week (Monday to Saturday). Based on that self-reported consumption and the Chief Technician's assertion of using 90 pounds per day, 7 days a week, the Center uses between 18,500 and 32,760 pounds, approximately, of salt per year. In comparison, a typical residential self-regenerative water softener uses approximately 400 to 1,000 pounds of salt per year, depending on the water softener's characteristics and other factors. The differential is anywhere between 25 and 80 times the use for the Center as compared with a typical residential installation.

**Fiscal Impact:**

The City's Revised and Reissued Ruling on Request for Reconsideration provides the Center with options to present factual evidence that would provide support for the elimination of the requirements of Wastewater Discharge Permit I-0013. If the City Council directs staff to rescind the Wastewater Discharge Permit I-0013 without empirical factual evidence, then the City increases the risk the RWQCB could fine the City, the City and the Center, or the Center. Administrative fines can be \$6,000 per day. If the City Council upholds the decision, the Center will likely experience additional capital costs and operational costs in compliance with the language of Waste Discharge Permit I-0013 for a minimum of 6 months. If after 6 months the factual evidence supports the Center's assertion a permit is not required, then the Utility Director can rescind the permit and the City would retain the rights provided for in the LMC to reinspect the Center's discharge to verify the Center remains below the thresholds that would otherwise require the Center to be permitted as a Class I, Class II IU, or a SIU, as the then current facts support. With the installation of an adequate sampling location, as discussed above, possible future inspections would not disrupt the Center.

**Conclusion:**

The City's Revised and Reissued Ruling on Request for Reconsideration provides the Center with options to present factual evidence that would provide support for the elimination of the requirements of Wastewater Discharge Permit I-0013, which is the primary request presented in their July 12, 2019 letter. A ruling other than to uphold the Utility Director's decision could expose the City to unnecessary costs, and unknown, but potentially significant, long-term liabilities and findings the City is not in compliance with its NPDES permit.

Respectfully submitted,

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Brad Wilkie, Utility Director

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**APPROVED FOR SUBMITTAL TO THE CITY COUNCIL:**

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Jim Throop, City Manager

- Attachments:
- 1) NOV dated September 24, 2018
  - 2) Center letter dated October 1, 2018
  - 3) City's Response Letter dated October 16, 2018
  - 4) Center Letter to Mayor Lingl dated November 1, 2018
  - 5) Mayor Lingl's Response dated November 15, 2018
  - 6) Corrected IUJ Permit dated May 8, 2019
  - 7) Message from Center dated May 13, 2019
  - 8) Center's Request for Consideration dated May 29, 2019
  - 9) Ruling on Request for Reconsideration dated June 18, 2019
  - 10) Revised and Reissued Ruling dated June 27, 2019
  - 11) Center's Appeal dated July 12, 2019
  - 12) Notice of Hearing dated July 19, 2019
  - 13) EPA Report dated April 25, 2019