(9/23/14) Board Meeting
Draft Drinking Water Systems General Permit
Deadline: 8/19/14 by 12:00 noon

IRVINE RANCH WATER DISTRICT 15600 Sand Canyon Avenue • P.O. Box 57000 • Irvine, California 92619-7000 • (949) 453-5300 • www.irwd.com

August 19, 2014

RECEIVED
8-19-14
SWRCB Clerk

The Honorable Felicia Marcus
c/o Jeanine Townsend, Clerk to the Board
California State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Via Email: commentletters@waterboards.ca.gov

RE: COMMENT LETTER – DRAFT DRINKING WATER SYSTEMS GENERAL PERMIT AND RESOLUTION

Dear Chair Marcus:

Thank you for the opportunity to provide comments for the State Water Resources Control Board's (SWRCB) consideration as it weighs adoption of the Draft Statewide NPDES Permit for Drinking Water System Discharges to Surface Waters (Draft Permit). The Irvine Ranch Water District (IRWD) has reviewed the Draft Permit, and has attended a recent SWRCB stakeholder workshop. IRWD understands the importance of implementing best management practices in NPDES permits authorizing surface water discharges, and we appreciate the SWRCB's desire to ensure best management practices are in use throughout the state.

As a water purveyor in Central Orange County, IRWD's service area lies in both the Santa Ana (Region 8) and San Diego (Region 9) Regions. The Santa Ana and San Diego Regional Water Quality Control Boards have worked with permittees and stakeholders to develop general discharge permits for drinking water discharges. These regional permits regulate discharges in a manner which best protects Region 8's and Region 9's watersheds given their unique characteristics while providing for necessary water system discharges that pose little or no threat to the regions' resources.

The regional permits also implement best practices with regards to reporting and monitoring. IRWD has worked with the Santa Ana and San Diego Regional Boards (Regional Boards) to implement a long-standing monitoring and reporting system for all three of its NPDES permits. The monitoring and reporting system clearly identifies the District's path for maintaining compliance with the permit conditions, and provides the regional boards the information they need to ensure that the authorized discharges are a low threat to receiving waters given their environmental sensitivities, and in compliance with permit conditions.

While IRWD understands the SWRCB's intent behind the Draft Permit, we request that the Board allow permitted entities the option of choosing to operate under an existing NPDES permit that covers drinking water system discharges as an alternative to being covered by the statewide permit. Allowing water purveyors to be covered under a regional permit will allow for greater public health, water quality and environmental protection than the statewide permit, and for reporting processes that allow for unique watershed threats to be monitored more closely.

A flexible approach to the statewide permit will not frustrate its efficiency and liability protection goals. IRWD understands from the stakeholder workshop and the August 5, 2014, SWRCB hearing that the Draft Permit is trying to achieve "efficiency" by having only one water board, as opposed to each regional board, work on a discharge permit for drinking water discharges from Community Water Systems (CWS's). Adoption of the Draft Permit will not achieve this efficiency goal because the Draft Permit is limited in scope.

Discharges from construction dewatering activities, on-going site dewatering and non-potable groundwater wells are ***not*** covered under the Draft Permit. As a result, water purveyors will still have to continue coverage for a portion of their discharges under their existing regional permits. In the case of IRWD, adoption of the Draft Permit would require the District to seek coverage under ***an additional permit***, which would establish a different set of monitoring and reporting requirements than is required by all three of its regionally issued NPDES permits. This means that the regional boards will still have to re-adopt their existing permits irrespective of the SWRCB's action on the Draft Permit.

A second stated goal of the Draft Permit is to provide liability protection to CWS's for the routine and emergency discharges authorized by the permit. Regional permits authorizing these types of discharges currently provide CWS's with the liability protection sought.

IRWD also requests that an additional 45-day comment period and stakeholder workshop be held if the Draft Permit is significantly amended before the SWRCB's September 23 hearing. Although the SWRCB has been developing the Draft Permit for a year, the first draft of the permit, which was released on June 6, 2014, was incomplete. The permit was then substantially revised and reissued on July 3. Due to numerous comments already received at the stakeholder workshops, SWRCB staff has indicated that the Draft Permit will once again undergo dramatic change. The revised draft is to be issued no later than September 13, 2014, and is expected to be considered for adoption by the SWRCB at its September 23 meeting. If considerable amendments are made to the Draft Permit prior to the meeting without another opportunity for public comment, it will not allow for sufficient public review of the revised permit or allow an opportunity for interested stakeholders to provide valuable feedback to the SWRCB prior to its consideration of the permit.

IRWD also offers the following additional comments for your consideration on the Draft Permit.

1) **Section I:** ***Exemptions from Coverage under the Draft Permit*** – Section I of the Draft Permit exempts certain water purveyors from coverage under the permit. One of the listed exemptions is if the water purveyor has entered into a local agreement with the local Municipal Separate Storm Sewer System (MS4) permittee and if the governing regional board provides written confirmation to the SWRCB that the local agreement provides sufficient regulation of the subject discharges. While SWRCB staff indicated at the stakeholder workshop that they purposefully did not describe the requirements of the local agreement in order to allow for flexibility, the regional board's confirmation must be submitted to the SWRCB with the Notice of Non-Applicability. The notice package is subject to the SWRCB's approval. Section II(C), concerning "Water Board Notice of Applicability or Notice of Non-Applicability Approval," does not list conditions upon which the SWRCB can reject a water purveyor's application for non-applicability based the local agreement exemption. Conditions should be added to Section II(C) so that water purveyors and the regional boards understand what the local agreement must contain in order to gain SWRCB acceptance of the Notice for Non-Applicability.

2) **Section I(B):** ***Discharge Definitions*** – The definitions of "treated drinking water," "potable water" and "raw water" are unnecessarily complex and include improper water quality requirements. For instance, the definitions, as currently written, all rely upon the discharged water's compliance with primary and/or secondary Maximum Contaminant Levels (MCLs), as running annual averages, and/or a

requirement that the water be suitable for human consumption. It is unclear why the SWRCB is concerned with the discharged water meeting MCLs if the water is not being discharged to a receiving water that has a municipal (or "MUN") beneficial use designation. The SWRCB's focus should be on the discharge not unreasonably degrading the receiving water's water quality, which should not be an issues given that these are *de minimis* risk and low threat discharges.

Furthermore, as stated in the Draft Permit, the purpose of the permit is to regulate discharges that are required for a water purveyor's operations to comply with the Safe Drinking Water Act and California Health and Safety Code. Most of the discharges required to comply with these laws are because the water does not meet the MCLs and/or is not suitable for human consumption. References to MCLs and "suitability for human consumption" should be removed from the Draft Permit. Rather than focusing on MCL compliance, the definitions should focus on whether or not the discharge would impact beneficial uses of the receiving waters, as defined in each region's specific basin plan. These definitions should also be changed in Attachment A.

3) **Section II(B)(1)(c): *Site Information*** – Section II(B)(1)(c) requires that a site schematic be submitted with an application package for coverage under the statewide permit. The site schematic must meet certain requirements including showing the "Identification of the portion of the community water system that discharges within a 300-foot conveyance distance from the receiving water(s) and/or within a 300-foot radius of the receiving water(s)." This requirement is extremely labor intensive and costly. Many systems are too large to create a single map with a 300-foot resolution with the specificity required. It is unclear what purpose the map will serve and the significance of the 300-foot threshold. The site schematic requirements should be clarified and be made less burdensome for large systems.

4) **Section V: *Effluent Limitations and Discharge Specifications*** – Section V should be simplified as to remove confusion related to total chlorine residuals for situational discharges. Sections V(B)(1), V(D)(1), and V(E)(1) should simply state that "Total chlorine residual concentration in the discharge shall be less than 0.1 mg/L." The threshold of 0.1 mg/L is appropriate given that it is the lowest level at which hand-held chlorine meters can confidently measure the concentration of chlorine in a sample.

   Additionally, during the stakeholder workshop, SWRCB staff indicated that the wording of Section V(C)(1) was mispublished and that the turbidity effluent limitation is meant to only apply to groundwater wellheads. Assuming this change will be made to Section V(C)(1), a turbidity effluent limitation of 10 NTU is problematic. Setting a turbidity effluent limitation on discharges from groundwater wellheads implies that turbidity monitoring must be conducted when a well is discharged. For water purveyors that have a large groundwater well field, as IRWD does, wells are automatically cycled on and off, both during and after working hours, without staff being present. It is unrealistic and cost prohibitive to monitor and sample all groundwater well flushes, especially upon pump start-up.

   More importantly, setting the turbidity effluent limitation at 10 NTU is not realistic for groundwater well start-up flushing, because groundwater wells are flushed until turbidity is reduced, and color and odor eliminated, before this valuable water is suitable to enter the potable water distribution system. While these discharges have the potential to be turbid, these discharges are typically very short in duration and are absolutely necessary for water purveyors to provide safe drinking water to their customers. The short duration of these discharges has led regional boards to deem these discharges low threat regardless of turbidity. The Draft Permit should do the same.

5) **Attachment B1: *Notice of Intent*** - Section G of the Notice of Intent in Attachment B1 requires a water purveyor to report if any receiving water bodies, which could be discharged into, are 303d listed for a constituent in the water purveyor's discharges. Section G also requires that the adopted TMDL, if

applicable, be reported. The discharges being regulated by the Draft Permit have been determined by most regional boards throughout the state to be *de minimis* in nature representing a very low threat to receiving waters and water quality. Additionally, the Statewide Permit in Section III(H) states that "due to the high quality and intermittent and short-term nature of the discharges from drinking water systems.... it is unlikely that these discharges contribute to the impairment of the TMDL-related water bodies." Given the nature of these discharges, requiring water purveyors to spend a significant amount of time researching 303d listings and adopted TMDLs for all possible receiving waters appears to be unnecessary, and disproportionate to the risk the discharge poses to the receiving water. Section G should be removed from the Notice of Intent.

6) **Attachment E:** ***Section II- Monitoring Locations and Sampling*** – Section II of the Monitoring and Reporting Program (MRP) in Attachment E outlines the required discharge monitoring in a vague and non-defined manner. For example, it requires dischargers to monitor "direct" and certain "non-direct" discharges to a Water of the U.S.; however, neither is a defined term. The Draft Permit also requires monitoring from representative locations for all non-direct discharges, but no guidance is provided as to how many representative monitoring locations are to be sampled annually. Section II needs to provide better guidance as to what is expected of a permittee for direct and non-direct discharge monitoring.

   Section II also provides that sampling of discharges must take place within the first ten minutes of the discharge. If the discharge lasts up to 60 minutes, a second sample must be taken within the last 10 minutes of the discharge, and if the discharge lasts more than 60 minutes, a sample must be taken within the first 10 minutes, within the next 50 minutes, and within the final 10 minutes of the discharge. The frequency of sampling after a discharge has lasted longer than 10 minutes, longer than 60 minutes, and the requirement to sample the discharge within the last 10 minutes of the discharge seems excessive. Usually after the first 30 minutes of a discharge, the water quality does not change significantly. The Draft Permit should be amended to only require that one sample be taken within the first 30 minutes of the discharge.

7) **Attachment E:** ***Section IV- Receiving Water Monitoring*** – Section IV of Attachment E requires that "receiving water shall be monitored for all direct discharges that are out of compliance with this Order." As a special district, IRWD is not a MS4 permittee, and often does not know the locations of where storm drain pipes discharge to a channel or stream that is a receiving water. Even when the discharge location is known, access is problematic given that the facilities are not owned or operated by IRWD, and most channels are fenced and locked. This requirement should be removed.

IRWD thanks you in advance for taking our comments into consideration. Please do not hesitate to contact me at (949) 453-5590, or our Sacramento Advocate, Maureen O'Haren, at (916) 498-1900 if we can be of assistance to you or your staff.

Sincerely,

Paul A. Cook
General Manager