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Central Valley Clean Water Association

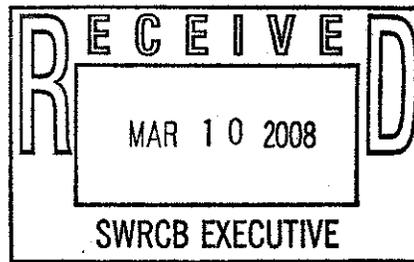
Representing Over Fifty Wastewater Agencies

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March 10, 2008

Sent via electronic mail to: commentletters@waterboards.ca.gov

Tam Doduc, Board Chair
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100.



RE: CVCWA Comment Letter - Proposed Recycled Water Policy

Dear Ms. Doduc and Board Members,

The Central Valley Clean Water Association (CVCWA) appreciates the opportunity to comment on the State Water Resources Control Board's (State Water Board) draft Statewide Water Recycling Policy (Draft Policy) and draft Staff Report and Certified Regulatory Program Environmental Analysis - Water Recycling Policy (draft Staff Report). CVCWA is a non-profit association whose member agencies own and operate municipal wastewater treatment facilities throughout the Central Valley. CVCWA's member agencies operate under NPDES permits, waste discharge requirements and water recycling requirements that are developed and adopted by the Central Valley Regional Water Board. Many of CVCWA's member agencies currently recycle water and/or are considering new water recycling projects. Therefore the impacts of this policy on current and future projects are important to our member agencies.

CVCWA members heartily support the State's goal of increasing water recycling and achieving consistency in water recycling permitting and regulation. We strongly support a Recycled Water Policy that promotes the use of recycled water as a valuable resource in California. CVCWA submitted comments in October 2007 on the previous Draft Policy and draft Staff Report. We appreciate that some changes were made to the Draft Policy in response to our and other water recycler's comments. However, we are very concerned that the Draft Policy still will have the opposite of its intended effect - discouraging the use of recycled water and making future projects unattractive or infeasible.

CVCWA supports the comments being submitted by the California Association of Sanitation Agencies (CASA), the Association of California Water Agencies (ACWA) and California Water Reuse Association on this Draft Policy. CVCWA urges the State Water Board to address the remaining key issues of concern, before final consideration and adoption of a Water Recycling Policy. We join with CASA, ACWA and Water Reuse in recommending that the State Water Board not adopt the Draft Policy at this time, but convene a stakeholder driven process to address the remaining key issues of concern.

CVCWA is specifically concerned with the following problematic provisions of the Draft Policy, which we believe should be addressed before a final policy is adopted:

Nitrogen:

The Draft Policy proposes to require nutrient management practices or plans when the recycled water contains more than 3 mg/L total nitrogen (TN). CVCWA believes these nutrient provisions are problematic because:

- There is no scientific basis or support given in either the Draft Policy or draft Staff Report for the 3-mg/L TN limit.
- The 3-mg/L TN limit is not achievable for most publicly owned treatment works (POTWs) with current technology. Conventional nitrification-denitrification processes typically are capable of achieving effluent TN in the range of 6 to 8 mg/L. Achievement of TN < 3 mg/L would require an additional process step and the ability to consistently produce this level of effluent TN is uncertain. Treatment plants in the Central Valley that do not nitrify and denitrify discharge total nitrogen concentrations that typically range from 15-20 mg/L TN. The proposed TN levels would force most of CVCWA's water recyclers to develop and implement nutrient management practices.
- The Draft Policy indicates that the Regional Water Boards *shall* require development and implementation of nutrient management practices and *shall* educate its users on how to calculate fertilizer application rates. The Draft Policy is not clear on as to what best management practices (BMPs) are acceptable for nutrient control or what they would entail. Based on the draft Staff Report, items such as soil and plant nutrient testing may be required when recycled water is applied. Even for a small crop or area, such testing can cost over a thousand dollars a growing season to assess. If these costs would not otherwise be incurred if surface or groundwater sources were used, these costs would likely discourage the use of recycled water. Without further detail on BMPs, CVCWA believes that it is likely that the current draft would lead to inconsistency, and possibly derail recycled water projects that would otherwise move forward.
- In many cases, land and crop management decisions are outside the control of the recycled water provider (third party users of recycled water). The Draft Policy is unclear as to how these situations are to be regulated.
- The Draft Staff Report and the Draft Policy are inconsistent in the treatment of nutrients. The draft Staff Report references the limiting *Nitrate* at the 3-mg/L level, but the Draft Policy recommends limiting *Total Nitrogen* to the 3-mg/L level. Nitrate is a subset of the total nitrogen, and therefore less of the amount of nitrogen that could be found in recycled water, which could also include other species of nitrogen.
- As currently written, the 3-mg/L TN limit could be interpreted as an instantaneous limit, since no averaging period (daily, weekly, monthly, or annual) is stated.

Salt Management

The Draft Policy currently contains interim provisions for salts (550 mg/L total dissolved solids (TDS) incremental increase above source water on a monthly basis) and the requirement for salt management plans within specific timeframes. The Draft Policy also infers that POTWs will be able to control salt through industrial and water softener control. CVCWA believes these salt provisions are problematic because:

- Although the Draft Policy revises TDS interim limit, the Draft Policy still proposes that this constituent be measured on monthly basis. As described in our October 2007 letter, the measurement of source water TDS on a monthly basis is problematic. In addition, although a significant number of our treatment facilities could meet the 550 mg/L TDS above source water currently on an annual basis, we have significant concerns that most would not meet that value consistently on a monthly basis, thereby reducing the availability of recycled water.
- As outlined in our October 2007 letter, CVCWA recommends that a water recycler be allowed to request parameters other TDS as an indication salt addition.
- Salt management plans are to be completed within five years with the possibility of a five-year extension if significant progress is made. However, there is no framework for determining progress, and clearly it will take more than five years to complete the plans. CVCWA believes that these types of timeframes are not appropriate within the Recycled Water Policy. True timeframes, including the consideration of compliance schedules, need to be considered in a process outside of this proposed policy.
- The policy does not provide incentives or consequences for Regional Water Boards and or other parties to participate in the development of or complete salt management plans. The burden and consequences fall on water recyclers thereby leaving recycled water purveyors and users in jeopardy.
- The Draft Policy does not define what constitutes a plan;
- The Draft Policy contains language to the effect that it is appropriate for Regional Water Boards to provide an "incentive" for recycled water purveyors to help with these plans. CVCWA would like more information on what "incentives" the State Water Board and Regional Boards can and will consider.
- The Draft Policy and draft Staff Report indicate that the 550 mg/L TDS over source water is achievable by controlling industrial sources and water softeners. There is no basis for this statement given in the either the Draft Policy or draft Staff Report. The ability to control these sources now and in the future and the impacts of water conservation may limit a water recycler's ability to meet this TDS requirement. POTWs are limited on their ability to restrict water softeners. The law will allow restrictions to water softeners, but only as a last resort to meet salt limitations in permits. The process a POTW must undertake to legally restrict water softeners is onerous, time-consuming and expensive. Legislative changes are needed to change current laws before mandating limits or provisions in policies or permits that require source control efforts through water softeners.

Antidegradation

CVCWA supports the State Water Board's efforts to address antidegradation requirements in the Draft Policy, however we believe that the Draft Policy needs to be clarified on this issue in several areas:

- In the Draft Policy, one could interpret the language to mean you have to "control" softeners to have best practicable treatment and control (BPTC) for landscape irrigation. Does this mean a POTW would simply have to have an ordinance pursuant to Health and Safety Code, or does it require the POTW to get its own law passed to try and ban existing softeners? What happens if that doesn't work out?
- The Draft Policy language seems to create a gap on how to comply with the Anti-degradation Policy when it is not clear what BPTC is in all cases. For example, the Draft Policy proposes that for chemicals of emerging concern, BPTC may be based on California Department of Public Health (CDPH) recommendations. However, the Draft Policy does not contain justification to meet this the conclusion (e.g., all of the work that is done in the water recycler's Engineering Report, public hearing, etc.). Finding #16 and Provision IV.B of the Draft Policy allows Regional Boards to set their own limits when interpreting narrative toxicity objectives. If this is the case, what is BPTC under this Policy?

Other Issues:

CVCWA has concern regarding other provisions of the Draft Policy. We recommend that these issues also be addressed through a stakeholder process before incorporated into a final Policy:

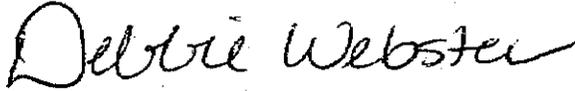
- CVCWA is uncertain as to what implications referencing the Clean Water Act have on recycle water users and purveyors.
- CVCWA is uncertain as to what will be considered a recommended CDPH limit. Will it include a formal CDPH limitation that is adopted as a recommendation, a proposed limitation that is a draft format for public comment, or something that is recommended by an individual CDPH representative?
- CVCWA is unclear as to how the Draft Policy will relate to recycled water projects for agriculture compared to landscape projects, especially in the area of groundwater monitoring.
- CVCWA is disappointed that the Draft Policy does not address the major impediments to recycled water use in permitting identified by the Recycled Water Task Force, specifically incidental runoff and decorative storage facilities.
- CVCWA believes that the provisions contained in the Draft Policy would necessitate treatment plant improvements in order to continue current water recycling programs for many of our water recyclers. We do not believe that the Environmental Checklist adequately addresses the impacts that provisions in the Draft Policy would require. CVCWA request that the State Water Board conduct a cost benefit analysis with regard to the provisions within the Draft Policy. In addition, we believe that draft Staff Report needs to include a robust, scientifically defensible analysis to determine if the provisions can be implemented and if they will be effective before including them in a policy.

Ms. Tam Doduc and SWRCB Board Members
CVCWA Comments on Proposed Water Recycling Policy
March 10, 2008

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Again, we urge the State Water Board to not adopt the draft Policy as currently written, but rather convene a series of stakeholder discussion to address these and other issues.

Sincerely,



Debbie Webster, Executive Officer
Central Valley Clean Water Association