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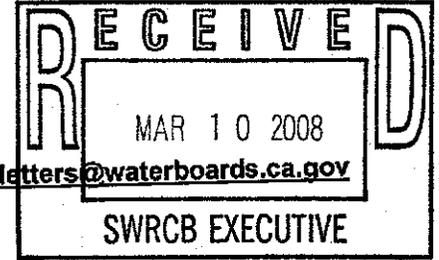
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MEMBER AGENCY OF THE
METROPOLITAN WATER
DISTRICT
SOUTHERN CALIFORNIA

3/18/08 Bd, Mtg. Item 13
Recycle Water Policy
Deadline: 3/10/08 by 12 p.m.



March 10, 2008

Sent via email [commentletters@waterboards.ca.gov](mailto:letters@waterboards.ca.gov)

Jeanine Townsend
Acting Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Subject: Revised Comment Letter – Water Recycling Policy – Oppose Adoption

Dear Chair Doduc and Members of the Board,

Las Virgenes MWD and Triunfo Sanitation District, a Joint Powers Authority (Authority), appreciate the opportunity to provide comments on the draft revised Water Recycling Policy. The Authority agrees with the intended goals of the policy, specifically promoting the expanded use of recycled water in the State, creating local non-potable supplies while reducing the amount of imported water, along with the related impact on carbon emissions, and providing consistency in setting regulations.

The Authority requests that the State Water Resources Control Board not adopt the draft Recycled Water Policy for California in its current form. While we had hoped that the revised policy would help achieve the state's goal of removing barriers to use of recycled water, we regrettably find the draft policy, as written, does not accomplish these goals. For this reason, we urge the Board not to adopt the proposed policy.

For background, the Authority provides wastewater treatment, bio-solids treatment and recycled water in the northwestern portion of Los Angeles County and the southeastern portion of Ventura County. The service area generally consists of the Malibu Creek Watershed and small portions of the Los Angeles River Watershed. Las Virgenes MWD also provides potable water service to its entire service area and Triunfo Sanitation District provides potable water service to the Oak Park portion of their service area. In both cases 100% of the potable water is imported from the State Water Project purchased from the Metropolitan Water District of Southern California. The Authority has a long history of providing recycled water in their service areas starting in 1970s. In the case of Las Virgenes MWD, 20% of the annual water demand is met with recycled water. Today the Authority has an extensive investment in facilities that span two counties making beneficial use of a resource that would otherwise go to waste. The planning process and investment in expanding this local resource continues, as an example the recycled water master plan completed this year identifies over \$25 million in potential expansions for the recycled water system.

In the interests of potable water conservation, beneficial reuse and compliance with the terms of our NPDES permit, we have a vested interest in continuing to promote and expand the use of recycled water. While we appreciate some of the revisions to the prior draft, such as the removal of the requirement to provide financial assurances, we do have a number of concerns with the policy that will have the opposite result of deterring or reducing the use and expansion of this valuable resource.

Our concerns are:

The Definition of a Project:

While the draft policy now includes definitions of "irrigation" and "landscape irrigation" projects, we still believe a project should be defined as the "system." Please consider



limiting the definition of a "recycled water project" to the design, construction and permitting of new recycled water systems, not the connection to these systems by individual customers. Our concern is practical: neither the State nor local governments have the resources to administer each connection to a recycled water system as a permittee, *even under a General Permit strategy*. The Authority has over 600 recycled water customers ranging from small irrigated green belts to large golf courses. Shall each of these customers and any new customers wishing to connect to an existing, already-permitted recycled water system have to first submit a groundwater monitoring plan, a salt management plan, and a nutrient management plan for their property? Requirement III.B.3 states that groundwater monitoring shall be required for a "project" if it is determined that site conditions could cause an adverse affect on public health or surface water quality. Without modifying the definition of a project as we suggest then there is the possibility that groundwater monitoring could be required at the customer level, an extremely burdensome if not insurmountable requirement.

Nutrient Management Practices

We are pleased to see that "nutrient management plans" have been replaced with "nutrient management practices." However, it seems that practices and plans are used interchangeably causing some ambiguity. Our concerns remain that the Authority has enforcement powers to regulate the application and use of plant nutrients and soil amendments on properties not owned by the Authority. It is also unclear how the threshold of 3 mg/L of total nitrogen was established. Our NPDES permit limits the nitrogen in our recycled water to 8 mg/L, which meets the objectives for both of the watersheds we serve, yet exceeds the 3mg/L trigger by nearly three times. We suggest that if a threshold is necessary to trigger the implementation of nutrient management plans or practices it not be more stringent than the water quality objectives or permitted limits for the specific watersheds.

Total Dissolved Solids (TDS) Concentration Limits

Please consider modifying the TDS concentration limits required in waste discharge and water reclamation requirements such that if the concentration in the recycled water meets the basin plan objectives then the recycled water shall be considered in compliance with this policy. Otherwise many agencies will be out of compliance with the policy as soon as it is approved, despite meeting basin plan water quality objectives. Again our concern is practical: our source water TDS concentration is as high as 340 mg/L and our recycled water concentration is 800 mg/L but can range as high as 890 mg/L, a 550 mg/L difference that just meets the proposed 550 mg/L additive limit, providing no room for error. The basin plan objective for the Malibu Creek Watershed is 2,000 mg/L and the Los Angeles River Watershed is 950 mg/L. Adoption of this policy could potentially force us to install advanced treatment processes at significant costs consuming large amounts of additional energy and creating another waste stream when we presently meet the basin plan objectives.

When the recycled water quality exceeds the groundwater objective for TDS, please consider the use of an *annual* average rather than a monthly average. Given the variability of many agencies' water supplies and the fact that salt buildup from groundwater recharge due to irrigation is incidental to the greater benefit of maximizing area water resources, an annual average will provide appropriate assurances of water quality without undue monitoring effort.

In spite of the single source (State Water Project) of potable water for the Authority, there are fluctuations throughout the year for TDS by as much as 90 mg/L. Annual averaging would attenuate these differences. If monthly averaging is used instead of annual averaging, a complying TDS value in one month could be a violation in the next month. If it exceeds 40% (as a non-toxic pollutant), it also triggers mandatory minimum penalties (MMP) for the discharger.

We also wish to point out that we supplement our recycled water system in the summer by adding groundwater pumped from wells in the area. The flow relieves potable water demand and goes directly to the wastewater treatment plant. This flow contains an average TDS of 1800 mg/L. When blended with the sewer flows, the resulting TDS still complies with the Basin Plan limits. However, the draft policy does not recognize the higher TDS from non-potable water sources. If adopted, this would

potentially impact our current or future plans to expand use of groundwater, to augment the recycled water supply, thus increasing the demand for imported potable water.

While we appreciate the legitimate need for salinity management in some areas of the state, we continue to believe that using a recycled water project application as a trigger for the preparation of salinity management plans is ineffective. The salt management plans are to be done in five years with the possibility of a five-year extension if significant progress is made, but there is no framework for determining progress, and our experience shows that it will take more than five years to do the plans.

Incidental Effects of Recycled Water Use

Requirement 1.B. of the draft policy could require that recycled water irrigation projects (as currently defined in the draft policy) shall be in compliance with the Federal Code of Regulations, Chapter 40, Part 122, National Pollutant Discharge Elimination System. We cannot support a policy that would require NPDES permitting for recycled water irrigation projects at the customer level, in particular the application and incidental run off associated with its use. This statement is an unnecessary and duplicative regulatory effort. Please consider eliminating this from the policy recognizing that a regulatory framework already exists that adequately addresses this issue.

The policy includes numerous references to the Clean Water Act without explaining how the Act is relevant or applicable to recycled water irrigation and recharge. Once again this uncertainty about the policy's intent and what is intended by Clean Water Act compliance creates a regulatory environment that can frustrate or eliminate the development of projects.

Other Concerns

The policy allows Regional Water Boards to establish recycled water limits, based on narrative toxicity objectives, which are more stringent than drinking water standards, without a basis in science. The policy undermines agencies' ability to plan for projects by introducing a level of uncertainty as to what limits might be established and at what level, and what the costs could be.

The policy relies upon the current MOA process to resolve conflicts between the California Department of Public Health (CDPH) and the Regional Board. This does not advance the cooperation between CDPH and the SWRCB which will be absolutely necessary to reach the State's established goals for recycled water use.

The policy's approach to groundwater monitoring is unclear. One provision seems to imply monitoring is not needed, but other provisions give Regional Boards the authority to require monitoring under certain circumstances. This lack of clarity will frustrate recycled water project planning. In addition, this lack of clarity could undermine the cohesive development of the monitoring plans needed to truly support regional salinity management.

The draft policy presumes that local agencies can control water softeners to limit salts, which is not accurate – there are legal limitations and political obstacles for prospective controls and no ability to retroactively ban residential softeners as described in Section 116786 of the Health and Safety Code. These real limitations on local agencies' authority to conduct source control efforts must be recognized if the policy is to truly advance water recycling.

The anti-degradation language does not adequately address components of the Anti-degradation Policy, particularly with regard to defining prevention of nuisance and pollution, maximum benefit, and best practical treatment and control (BPTC). Without addressing these issues, the Draft Policy cannot insure it will not unreasonably affect beneficial uses.

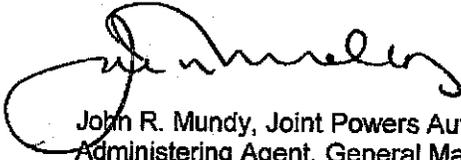
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In closing we once again want to assure you that the Authority agrees with the intended goals of the draft policy for promoting the expanded use of recycled water in California, of creating local non-potable supplies while reducing the amount of imported water and the related impacts on carbon emissions as well as providing consistency in setting regulations.

The Authority takes pride in its role as a leader in the use of recycled water and has developed an extensive system that makes use of this valuable resource not only for the benefit of our ratepayers but for all people of the State of California. We strongly urge you to consider making the changes we suggest so the policy meets its intended goals along with the recycled water goals already enumerated by the State. Above all, we seek to avoid the opposite result of deterring or eliminating the further development and use of recycled water.

If you or your staff has any questions on these suggestions, please call David Lippman or Carlos Reyes on my staff.

Very truly yours,



John R. Mundy, Joint Powers Authority
Administering Agent, General Manager