

MELLANO & COMPANY

"Growing for you since 1925"

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

SUBJECT: COMMENT LETTER: RECYCLED WATER POLICY—March 18, 2008 Board Meeting

Dear Chair Doduc and Members of the Board:

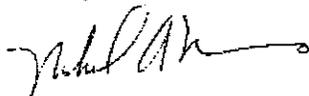
Mellano & Company is a third generation family farm and we grow cut flowers in North San Diego County. One of our operations currently relies on recycled water as the primary source for irrigation. I only recently became aware of the current policy that is intended to be adopted and would like to request that the State Water Resources Control Board reconsider and not adopt the draft Recycled Water Policy for California until more work can be done to clarify the points that have been raised by others. It is my understanding that there are still several provisions that could potentially negatively affect the availability and use of recycled water. For this reason, we urge the Board not to adopt the proposed Policy.

A brief summary of these policy issues include:

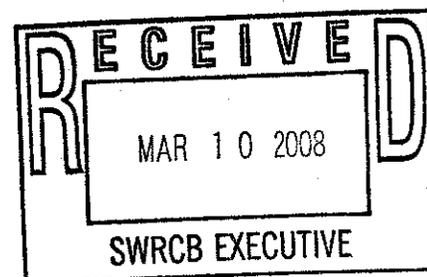
- The Policy allows Regional Water Boards to establish recycled water limits, based on narrative toxicity objectives, which are more stringent than drinking water standards, without a basis in science. The Policy undermines agencies' ability to plan for projects by introducing a level of uncertainty 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.
- While we appreciate the legitimate need for salinity management, 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.
- 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 further contributes to the lack of clarity which will frustrate 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 Policy establishes a 3 mg/L nitrogen threshold in recycled water for implementation of nutrient management practices and again, the Policy lacks clarity as to what is meant by "nutrient management practices". Many water recyclers produce water that exceeds this threshold and again, without clarity agencies' planning efforts are impeded by uncertainty as to treatment requirements and costs.
- The SWRCB Policy presumes that local agencies can control water softeners to limit salts, which is not accurate — there are legal limitations and obstacles for prospective controls and no ability to retrospectively ban residential softeners. This real limitation on a 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 the 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 this issue, the Draft Policy cannot insure it will not unreasonably affect beneficial uses.
- 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 the development of projects.

Given the current drought situation, the use and need for reclaimed water is going to be greater than ever. It is imperative that production and use regulations be appropriately developed with sound science to ensure the availability of this valuable resource. Please do not adopt these policies until there is a sound basis for these decisions.

Sincerely,



Michael A. Mellano
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Mellano & Company



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