

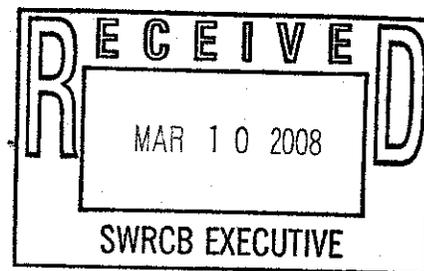


3/18/08 Bd, Mtg. Item 13  
Recycle Water Policy  
Deadline: 3/10/08 by 12 p.m.

OFFICE OF THE MAYOR  
ANTONIO R. VILLARAIGOSA

March 10, 2008

Ms. Jeanine Townsend  
Clerk to the Board  
State Water Resources Control Board  
1001 I Street, 24<sup>th</sup> Floor  
Sacramento, California 95814



**Subject: Comment Letter – Proposed Recycled Water Policy**

Dear Ms. Townsend:

The City of Los Angeles (City) appreciates the opportunity to provide comments on the State Water Resources Control Board's (State Board's) Revised Proposed Recycled Water Policy (Policy) and commends the State Board for its efforts to develop a consistent statewide policy to encourage the use of recycled water. We believe that the State Board Policy should be simplified and strengthened to clearly express the State Board's support of recycled water projects. We urge the State Board to focus on straightforward permitting that facilitates the development of environmentally beneficial, cost-effective recycled water projects. Furthermore, the State Board should use this Policy to encourage permitting practices that recognize that landscape irrigation projects using highly treated recycled water, and where recharge is incidental or de minimis, are likely to have little, if any, impact on groundwater quality.

As a supplier of water to four million people, we believe that the Policy should focus also on the timely development of a consistent statewide policy and the immediate implementation of the provisions of the recently adopted Assembly Bill 1481 that are essential to advancing the use of recycled water for irrigation in California. The increased use of recycled water for irrigation will aid the State in resolving its water supply and greenhouse gas challenges. The City supports the development of a consistent statewide policy and general permit that protect our water resources and encourage the use of recycled water for irrigation projects.

The City appreciates some of the revisions made to the prior draft. We are still requesting clarification of a number of policy provisions in the current draft of the Policy



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State Water Resources Control Board  
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so that it can meet the goal of increasing recycled water use. Toward this shared goal, the City has attached detailed comments to the most recent draft of this Policy dated February 15, 2008.

The City hopes that the attached detailed comments will assist the State Board in revising its latest draft of the Policy to foster consistent application and uniform interpretation of water recycling throughout the state. A clear policy that supports the use of recycled water coupled with the accelerated development of a statewide general permit for irrigation projects will ensure that the state will meet its goals for the use of recycled water. The development of a general statewide permit for irrigation projects will allow the Policy to clearly differentiate between groundwater recharge and irrigation projects.

Recycled water is a sustainable resource, and the use of recycled water for irrigation is a great way to save potable water supplies for other more important uses. This is more important now than ever as we continue to face drought and reduced water supplies. The use of recycled water for irrigation is safe and has been in use for years. Additionally, the increased use of recycled water will help reduce the energy consumption and resulting greenhouse gas emissions associated with supplying potable water throughout the State. A statewide policy that fosters consistent application and uniform interpretation of water recycling throughout the state coupled with a statewide permit for recycled irrigation will help California to meet its water supply and greenhouse gas challenges.

Sincerely,

  
NANCY SUTLEY  
Deputy Mayor, Energy and Environment

Attachment

cc: Tracy Egoscue, RWQCB  
Michael Mullin, Mayor's Office  
Cynthia Ruiz, Board President, Board of Public Works  
Paula Daniels, Commissioner, Board of Public Works  
Rafael Prieto, Chief Legislative Analyst Office  
David Nahai, LADWP  
James B. McDaniel, LADWP  
Enrique Zaldivar, Bureau of Sanitation/EXEC  
Traci Minamide, Bureau of Sanitation/EXEC  
Varouj Abkian, Bureau of Sanitation/EXEC  
Hiddo Netto, Bureau of Sanitation/WRD  
H.R. (Omar) Moghaddam, Bureau of Sanitation/RAD

## ATTACHMENT

City of Los Angeles

**Comments on the February 15, 2008 Draft  
Revised Statewide Water Recycling Policy**

**Submitted on March 10, 2008**

- 1. In the context of basin wide salt management plans, Total Dissolved Solids (TDS) should not be set as a requirement in the Policy.**

Although the City of Los Angeles (City) supports the development of basin-wide salt management plans, we do not believe an interim TDS requirement is necessary while these plans are being developed. Water recycling permits already have TDS requirements based on basin plan groundwater quality objectives, which will be effective during the interim period when salt management plans are under development. Requiring an interim TDS requirement may be impractical for producers of recycled water. The new interim TDS requirement of source water TDS plus 550 mg/l, in Section III.B.1, is still more restrictive than many regional basin plan objectives and existing water recycling requirements. Existing TDS requirements in Basin Plans and in water recycling requirements will continue to protect groundwater basins while salt management plans are being developed. The City suggests, as an alternative, that the Policy's interim TDS requirement only be triggered if the TDS concentration of recycled water exceeds a local basin plan's groundwater quality objective.

Requiring a producer of recycled water to determine a monthly average TDS of source water within the service area will be extremely difficult to determine. For example, the City's Los Angeles-Glendale Water Reclamation Plant (LAG) receives wastewater from three cities, Los Angeles, Glendale, and Burbank. Each City has its own water purveyor, and the mix of water can come from different sources at anytime. The City of Los Angeles serves potable water in areas served by LAG that can come from groundwater, the Los Angeles Aqueduct, and the Metropolitan Water District, each with its own unique and variable TDS concentration. The blend can also change on a daily basis. The same is true for the Cities of Glendale and Burbank. It will also be difficult for Regional Boards to enforce a moving target. In this case, a recycled water producer would not know whether it was in compliance or not. If this requirement is maintained, then the TDS requirement should be based on the previous year's annual average for TDS. The previous year's annual average of source and recycled water's TDS values would provide recycled water producers with known guidelines, while capturing continuous TDS variations and still be protective of the environment.

As we noted in our previous letter, the Policy continues to overstate how much control a local agency has in limiting its TDS. Existing state law makes it difficult to ban the installation of new water softeners and impossible to remove existing water softeners. (Health and Safety Code section 116775). The State Board's policy does not change existing law or even encourage the legislature to change existing laws to facilitate the removal of

water softeners. In addition, the Policy refers to source control of industrial discharges. Industrial discharges are not the largest contributor of salt to the collection system. The largest contribution comes from the source water. Trying to ensure compliance with the Policy's interim TDS requirement through industrial local limits would be further complicated by requiring enforcement of an adjustable industrial discharge limit (fluctuating with the combined potable water concentration).

The City also requests further clarification of the steps that would be required if recycled water exceeds the interim TDS requirement. The policy needs to clearly specify what actions will be required under the policy.

***REQUESTS: Eliminate the interim TDS requirement or at the very least, trigger the proposed limit of source water plus 550 mg/l only when the TDS of the recycled water is above a local basin plan's groundwater quality objective.***

***If the policy retains the interim TDS requirement, then base it on the previous year's annual TDS average to make compliance workable.***

***Clarify in the Policy the steps required to be taken if the interim TDS requirement is exceeded.***

## **2. The Policy should clearly define Salt Management Plans (SMPs).**

The Policy should clearly define what constitutes a SMP and require participation by all stakeholders that could potentially impact a groundwater basin. It should also state that any groundwater monitoring for the SMP is basin wide and not limited to a specific project. The Policy uses the existence of an ongoing recycled water project or receipt of an application for a new recycled water project, by the Regional Board, as the trigger for the decision process as to whether or not adoption of a salt management plan is necessary. The City supports the development of salt management plans regardless of whether there is a recycled water project. Finding 13 states that it is "unreasonable to require groundwater monitoring for landscape irrigation projects using recycled water because these projects generally pose a threat to water quality similar to landscape irrigation."

With or without the presence of a recycled water project, groundwater may sometimes be threatened by other sources. Therefore, the triggering mechanism should not solely rely on recycled water projects. The review of the impacted groundwater basin should be "global", and all regional impacts and sources should be evaluated. As with the concept for monitoring on page 8, paragraph B.3, the information burden should be shared amongst all parties contributing to salt loadings.

The City recommends that the State Board require that the trigger for the SMP be a region wide evaluation of existing salt contributors in a basin. Once the comprehensive SMP is

developed and adopted by the Regional Board for a specific basin, it can be implemented with the plans and/or practices already known by the applicant or user.

***REQUEST: Clearly define what constitutes a SMP; state that SMPs should include all stakeholders; state that SMPs are not specific to recycled water irrigation projects.***

**3. Clarify Groundwater Monitoring requirements for Irrigation Projects.**

Within the Policy's interim requirements for irrigation projects, groundwater monitoring is deferred unless the Regional Water Board determines that "site conditions" exist that require groundwater monitoring. We believe it is appropriate and protective of groundwater to limit the Regional Boards' discretion to require groundwater monitoring for individual irrigation projects. Also, site conditions that might require groundwater monitoring, such as shallow groundwater" need to be more specifically defined. Any incidental recharge from an irrigation project will have a *de minimus* impact on groundwater. The City suggests that groundwater monitoring should only be required for irrigation projects as part of a regional monitoring effort or if the irrigation project is not eligible for coverage under the future statewide general permit as required by recently adopted Assembly Bill 1481.

***REQUEST: The Policy should clearly state that groundwater monitoring is not required for individual recycled water irrigation projects and should be conducted on regional basis.***

**4. The Policy should clearly define the requirements for Nutrient "Practices" and set the interim total nitrogen requirement at an achievable level.**

The City believes that a nutrient management practice should consist only of end user education regarding best management practices for applying fertilizers when using recycled water. However, the policy needs to clearly specify what is required to comply with the development of "nutrient management practices" that "educate" users to consider nutrient concentrations before applying fertilizers. The policy needs to provide clearer guidance on what those requirements are.

The City questions the basis for the 3 mg/l total nitrogen requirement for triggering the development of nutrient management practices. The data from our recently converted nitrification/denitrification facilities indicate an average concentration of 7.5 to 10.5 mg/l of total nitrogen. Even the City's advanced treatment (MF/RO) at Terminal Island has at times, exceeded 3 mg/l of total nitrogen. The City's limit for NO<sub>3</sub> plus NO<sub>2</sub> portion of total nitrogen under the LAG's Water Recycling Requirements is 10 mg/l, which is based on a groundwater quality objective in the basin plan. A limit of 3 mg/l is not realistic and will ensure that everyone will have to develop nutrient "practices" regardless of whether

treatment plants have nitrification/de-nitrification facilities. The City requests that the total nitrogen limit be set at an achievable level based on the Best Available Technology (BAT).

***REQUEST: Define nutrient management practices within the policy and set the interim limit based upon actual data obtained from large sized treatment plants with operational NDN facilities.***

## 5. Narrative Toxicity Requirements

The City is concerned with the addition of Section IV, Narrative Toxicity Objectives. This section in essence allows a Regional Board to establish an effluent limitation that is more stringent than an MCL without consideration of attenuation. This is inconsistent with the State Water Board's Alamitos Barrier Order. The policy could potentially undermine the State Board's decision by allowing Regional Boards to use Notification Levels (NLs) set by California Department of Public Health (CDPH) as effluent limits without deference to recommendations from CDPH. This could result in holding recycled water to a higher standard than potable water. The language in this section also does not limit these requirements to groundwater recharge projects and if applied by Regional Boards, could force advanced treatment for irrigation projects. If the State Board's goal is to encourage the use of recycled water, then this section needs to be revised to state that the CDPH is the authority on setting requirements to protect public health and limits placed on recycled water irrigation projects should not be more stringent than those applied by CDPH. The purpose in developing this policy is to encourage the use of recycled water, but this provision will not lead to increased use of recycled water. The City has witnessed where Regional Boards have included NLs as limits in permits for groundwater recharge and as triggers for groundwater monitoring and attenuation studies for recycled water irrigation projects. These requirements will not facilitate the use of recycled water for irrigation projects. We have noted before that irrigation with recycled water has *de minimus* impact on groundwater since they are not designed to recharge groundwater. Customers must still pay for this water and have an economic incentive to use it wisely. Therefore, the City does not see the need for this section or for its application to irrigation projects.

***REQUEST: The Policy should clearly state that CDPH is the authority on setting requirements for recycled water and that Regional Boards should apply those requirements in the same manner as they are applied to potable water uses.***

## 6. The Policy should recognize that recycled water is a valuable resource per the Water Code.

The policy continues to refer to recycled water as a "waste" in Finding 19. The policy needs to make it clear that under the Water Code, recycled water is a valuable resource to be used beneficially (Water Code Section 13050(n), 13529.2(f)). The policy as written implies that a

recycled water irrigation project is being held to a higher standard than a potable water irrigation project. The policy in Finding 13 states that landscape irrigation using recycled water poses a threat similar to landscape irrigation projects using potable water. Recycled water is water that is treated and appropriate for use in irrigation projects. It is a resource that preserves ever shrinking sources of potable water supplies and can reduce the State's consumption of energy. Many of the recitals need to be redrafted to remove language that infers that recycled water is a problem to be mitigated rather than a resource to be used.

***REQUEST: The Policy should clearly state that recycled water is a resource.***

**7. The Policy should not require salt management plans to include “best practicable treatment or control measures” (BPTC).**

The City is concerned with the addition of language stating that salt management plans must include a “description” of BPTC to ensure recycled water projects do not result in a salt or nutrient condition in order to be in compliance with State Board Resolution 68-16. A salt management plan's purpose is to manage the amount of salt in a groundwater basin from all sources. Providing a description of BPTC is not necessary and if it relates to the removal or banning of water softeners, the policy does nothing to change current law to allow their removal. However, the problem faced by all is the increasing amount of salt in potable water sources, especially in times of drought, which leads to higher salt levels in recycled water. Including this requirement in Section VI.C could also result in differing interpretations by Regional Boards. Since BPTC is not clearly defined under this policy, Regional Boards may have differing interpretations. This will not lead to consistent statewide application of requirements to projects.

The City appreciates removal of the reference to NPDES permits in the previous version, which could have had the consequence of requiring individual NPDES permits for incidental runoff. As we stated before, there are adequate existing regulatory schemes for managing irrigation runoff.

***REQUEST: Remove the requirement that a salt management plan contain a description of BPTC since it is not defined.***

**8. The Policy in Section VII should simply state that nothing in this policy is intended to expand or limit responsibility for contamination.**

The City believes that Section VII of the policy should simply retain the first sentence of the section stating that “Nothing in this policy is intended to expand or limit responsibility for contamination or pollution of groundwater.” Yet the policy continues on to state that dischargers shall be responsible for contamination resulting from more stringent standards. This language is unnecessary and should be removed if the intent is truly not to expand or

limit responsibility under current law. We noted in our previous letter that this language might conflict with the recent decision in the Hartwell Case. It should not be the intent of the policy to argue for expanded responsibility when trying to encourage increased use of recycled water.

***REQUEST: Policy to simply state that nothing is intended to expand or limit responsibility under current law and remove the additional extraneous language.***

In closing, the City supports the development of a uniform statewide recycled water policy to meet the state's water recycling goals and commends the Board for their efforts to develop a uniform statewide water recycling policy. Such a policy is essential in working towards achieving the State's goals for maximizing the use of recycled water. The City looks forward to working with State Board staff in developing a policy that encourages the use of this valuable resource.