



CVCWA Central Valley Clean Water Association

Representing Over Sixty Wastewater Agencies

STEVE HOGG – CHAIR, FRESNO
JEFF WILLET – SECRETARY, STOCKTON

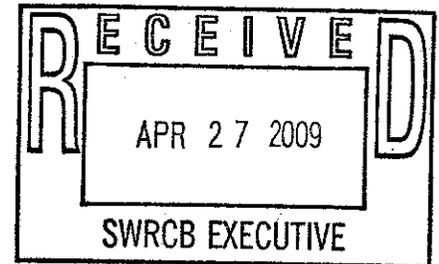
ED CROUSE – VICE CHAIR, RANCHO MURIETA CSD
HUMBERTO MOLINA – TREASURER, MERCED

April 27, 2009

Via Electronic Mail & U.S. Mail

Charles R. Hoppin, Chair and Members
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

ATTN: Jeanine Townsend, Clerk to the Board
commentletters@waterboards.ca.gov



RE: Comment Letter—Landscape Irrigation General Permit

Dear Chair Hoppin and Members of the Board:

The Central Valley Clean Water Association (CVCWA) appreciates the opportunity to submit comments on the *Draft General Waste Discharge Requirements for Landscape Irrigation Uses of Municipal Recycled Water* (General Permit). CVCWA's members are local public agencies and professionals engaged in the production and distribution of recycled water for beneficial use throughout the Central Valley. We support the State Water Board's Recycled Water Policy's emphasis on streamlining and simplifying permitting for landscape irrigation projects using recycled water. The General Permit must be consistent with and further this important aspect of the Recycled Water Policy. However, a water recycler must be given the opportunity to seek coverage under a different permit and not be required to be subject to multiple permits for its recycled water use.

As this State Water Board acknowledged in the Recycled Water Policy, the use of recycled water in California is more important today than at any other time in our history. The sustainability of the State's future water supply and economy depend upon increased recycled water use. As California's Recycled Water Task Force recognized in 2003, recycled water is at an artificial and unfair disadvantage compared to other, typically less energy efficient water sources. The primary reason for this is regulatory inconsistency and overly burdensome requirements in the permitting of recycled water projects. To address this barrier and realize the legislative intent to encourage and increase water recycling, the State enacted AB 1481 (De La Torre). The purpose of AB 1481 is to develop and adopt a General Permit that increases the

safe, reliable use of recycled water for landscape irrigation uses and reduces reliance on alternative water sources.

CVCWA appreciates the State Water Board's efforts to satisfy the goals of AB 1481 within the statutory timeframe. The basic structure of the General Permit's operative provisions is sound—requiring compliance with Title 22 of the California Code of Regulations (Title 22), conformance with the incidental runoff best management practices (BMPs) set forth in the Policy, a menu of additional BMPs and an operation and maintenance plan (O&M Plan).

However, we are very concerned that the proposed General Permit would exclude many existing landscape irrigation projects or otherwise discourage the safe use of recycled water for landscape and other uses. As explained below and/or in the attached detailed comments, some provisions are inconsistent with the Policy, unnecessarily prescriptive or redundant, and overly burdensome for a permit to water landscapes with recycled water. The General Permit inaccurately or incompletely restates Title 22's requirements in many places. There are also provisions where we agree with the Board's intent, but the language requires clarification. **CVCWA urges the State Water Board to significantly revise the General Permit to address these comments and issue a second draft for review.**

CASA and WaterReuse and the City of Roseville have submitted comment letters on the General Permit. In general, CVCWA supports these comment letters and shares the concerns outlined in them.

A. The General Permit Should More Clearly Characterize Recycled Water As a Valuable Resource

In accordance with AB 1481, the purpose of the General Permit is to increase recycled water use and decrease reliance on other water sources. As drafted, several findings and prohibitions in the General Permit undermine its purpose and run counter to the Recycled Water Policy. These findings and prohibitions characterize recycled water as a waste rather than valuable resource. For example, the findings generally create the impression that recycled water used to water landscapes is a somehow a water quality threat. This is inconsistent with the Policy as well as the Water Code. Water Code section 13050(n) defines "recycled water" as "water which, as a result of treatment of waste, is *suitable for a direct beneficial use or a controlled use that would not otherwise occur and is therefore considered a valuable resource.*" (Emphasis added.) To be consistent with AB 1481, the Water Code and the Recycled Water Policy, the General Permit must characterize recycled water as a valuable resource rather than waste discharge. Accordingly, CVCWA respectfully urges the State Water Board to articulate findings that track those in the Recycled Water Policy and expand upon them only to the extent necessary. The General Permit does not allow the use of recycled water that is improperly treated and managed; therefore, the State Water Board can address any potential adverse impacts of the use of recycled water that does not comply with applicable requirements in the staff report. CVCWA supports the language proposed by CASA and WaterReuse regarding these findings.

B. The Discharge Prohibitions Section Should be Reorganized and Revised.

1. *Many of the "Prohibitions" Relate to Scope of Coverage and Eligibility.*

Discharge Prohibitions set forth in a permit should make clear the actions that are prohibited for permit holders under that specific permit but are acceptable uses of recycled water that are covered under permitting scenarios. CVCWA is very concerned that the General Permit may give the impression that using recycled water many of the "prohibited" uses are improper uses of recycled water – which is not the case.

Prohibition Nos. 5 and 6 state that the General Permit does not apply to groundwater recharge reuse projects or cooling towers or other industrial uses, respectively. These provisions relate to circumstances outside of the landscape irrigation context, which is the subject of the General Permit. Accordingly, we recommend that the State Water Board delete Prohibition Nos. 4 and 6 and address them in a separate, newly created scope of applicability section of the findings. Similarly, Prohibition Nos. 5, 7 and 8 would prohibit recycled water use under certain circumstances identified by CDPH, even though not inconsistent with or disallowed by Title 22. These are not prohibitions, but rather determinations of eligibility for coverage under the General Permit rather than an individual permit. These types of determinations must be made up front by CDPH in its review of the project engineering report. In addition, the wording of Prohibitions 7 and 8 are insufficiently precise to serve as permit conditions. A permit cannot prohibit a recycler from taking an action because CDPH has "a concern" about a constituent, or where CDPH deems a plumbing schema to be "complex." Permit holders cannot know whether these conditions exist unless CDPH advises them in advance, and therefore there is no opportunity to conform the permit holders' conduct to the prohibition. Instead, CDPH must make these determinations when reviewing the engineering report. Prohibitions 5, 7 and 8 should be deleted.

2. *Prohibitions 3, 11 and 16 Are Substantively Problematic and Should be Revised.*

CVCWA has substantive concerns with Prohibition Nos. 3, 11, and 16. Prohibition 3 appears intended to preclude the use of recycled water for irrigation of landscapes of single-family homes, but the prohibition itself is much broader and precludes the use of recycled water in any area "zoned" residential, which could include parks, streetscapes, and medians, which is not the intent. The General Permit should not restrict the use of tertiary recycled water to the common areas of residential, commercial or industrial sites. Title 22 of the California Code of Regulations (Title 22) does not include such a limitation and the use of recycled water for single-family homes has been implemented in the Central Valley. The General Permit should nr clear where recycled water uses are permitted, but that coverage under another permitting scenario is required.

For example, Prohibition No. 11 would prohibit the use of recycled water within 50 feet of any surface water without regard to compliance with the Policy, Title 22 and the applicable BMPs or the absence of any water quality threat. This is not a typical requirement for existing landscape irrigation projects and would prevent coverage under the General Permit for these and future projects. For example, a golf course with a dry wash running through the property would not be able to irrigate with recycled water, even if all the incidental runoff BMPs were in place.

Prohibition 16 prohibits the "application" of "any material" that results in a violation of Proposition 65. The purpose of this prohibition is unclear, as Prop 65 addresses sources of

drinking water and the recycled water being permitted will be applied to the ground to water landscape. Moreover, public agencies are exempt from Section 25249.5 of the Health and Safety Code, so it is not clear that this provision would have any effect except where the water purveyor happens to be an investor owned utility. Conversely, if the intent is to preclude the use of recycled water that includes any Prop 65 chemical at any detectable level, this will preclude virtually all irrigation projects, as recycled water—like all water supplies—may include trace amounts of these constituents. We urge that Prohibition 16 be deleted.

C. Removal or Modification of Overly Prescriptive Provisions Would Increase General Permit Coverage and the Use of Recycled Water for Landscape Irrigation

We are concerned that some provisions of the Permit are so prescriptive as to contravene the Policy and severely limit the permit's value as an opt-in alternative to existing permit mechanisms. When a general permit is overly detailed and prescriptive, the universe of project proponents that can and will seek coverage under the permit is significantly constrained. For example, Specification No. 12 requires use areas to display a sign to notify the public not to drink the recycled water. The sign must include certain wording and an international symbol similar to that shown in Attachment D of the General Permit. However, Title 22 allows for the use of alternative signage and wording or an educational program where the alternative provides equivalent notification. (Cal. Code Regs, tit. 22, § 60310.) In practice, recycled water distributors, producers and users find alternative signage and wording more appropriate for some use areas and at least as effective.

The overly prescriptive or specific nature of some of the General Permit's provisions is most apparent with regard to requirements to monitor and report. These provisions would render some recycled water projects infeasible, especially for small water recyclers. The provisions would also create disincentives for General Permit coverage and for irrigators to use recycled water instead of potable and other water sources. For example, Provision No. 5.C requires multiple levels of documentation for each use site for submittal to the State Water Board before a project may begin. These levels include an operations plan, general irrigation management plan, individualized irrigation management plan, and an approved Title 22 engineering report. Most landscape irrigation projects do not currently require this level of documentation. Moreover, the individualized management plan contravenes the Policy, which requires:

[a]n operations and maintenance plan that *may apply to multiple sites* and provides for detection of leaks, (for example, from broken sprinkler heads), and correction either within 72 hours of learning of the runoff, or prior to the release of 1,000 gallons, whichever occurs first. (Policy at p. 8, emphasis added.)

In addition, the General Permit's requirements in the monitoring and reporting program to monitor daily, conduct weekly site investigations and prepare an annual report for each use area would be excessive and unnecessary for many landscape irrigation projects.

To resolve these issues, CVCWA suggest that the State Water Board adopt a "bottom-up" approach. Under this approach, the General Permit would assign, to the fullest extent possible, the responsibility to oversee and administer users' landscape irrigation projects to producers and distributors. This is consistent with current practice and master reclamation permits. (See, for example, Order R2-96-11, the Bay Area general permit for recycled water. The approach is also consistent with the General Permit's overall strategy to have producers and distributors ensure

that users comply with the General Permit. Our detailed comments provide suggested language on how to effect the bottom-up approach recommended.

D. Clarifications to General Permit Provisions Could Better Express the State Water Board's Intent and Promote Use of the General Permit

The detailed comments attached to this letter provide suggested language changes to better reflect what we believe to be the State Water Board's intent in adopting certain General Permit provisions. For example, suggested changes remove references to agriculture as inappropriate since the General Permit is for the use of recycled water for landscape irrigation—not agriculture.

Suggested language changes also clarify enrollment and eligibility under the General Permit. The General Permit should be clearer as to how it relates to existing individual and master reclamation permits. For example, the General Permit should state whether existing WDRs or WRRs that regulate landscape irrigation projects are to be rescinded by the Regional Water Boards once the project is covered under the General permit. The General Permit should explain the conditions under which a producer may sign the notice of intent. Provisions should also explain the ability to enroll under the General Permit or proceed with a project before a salt and nutrient management plan is complete.

Thank you for your time and consideration of our comments. CVCWA appreciates the State Water Board's efforts to develop a sensible and useful General Permit that satisfies the goals and intent of the Policy, AB 1481 and Title 22. We believe that our suggestions in this letter and the detailed comments will help the State Water Board develop such a permit and bring California closer to a sustainable water supply future, and we look forward to review of a revised draft permit. If you have any questions, please contact me at (530) 268-1338 or at my e-mail address eoofficer@cvcwa.org.

Sincerely,



Debbie Webster, Executive Officer
Central Valley Clean Water Association